

The copyright of this thesis vests in the author. No quotation from it or information derived from it is to be published without full acknowledgement of the source. The thesis is to be used for private study or non-commercial research purposes only.

Published by the University of Cape Town (UCT) in terms of the non-exclusive license granted to UCT by the author.

4

A CRITICAL ANALYSIS OF FIREARM CONTROL IN POST-APARTHEID SOUTH AFRICA.

by

Sheilah Coxford (CXFSHE001)

A minor dissertation submitted in partial fulfilment of the requirements for the award of the

Degree of Master in Democratic Governance

Department of Political Studies

Faculty of the Humanities

University of Cape Town

2001

Declaration

This work has not been previously submitted in whole or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

Signature signature removed

Date 14 February 2001

CONTENTS

LIST OF TABLES V

ACKNOWLEDGEMENTS..... VI

LIST OF ABBREVIATIONS.....VII

ABSTRACT VIII

CHAPTER 1 INTRODUCTION 1

1. THE GUN CONTROL DEBATE 3

2. DEFINITIONS AND PARAMETERS 6

CHAPTER 2 LITERATURE REVIEW 7

1. SOUTH AFRICAN LITERATURE 7

2. INTERNATIONAL LITERATURE..... 11

3. CONCLUDING COMMENTS 14

CHAPTER 3 A PROFILE OF VIOLENT CRIME IN POST-APARTHEID SOUTH AFRICA..... 15

1. STATISTICAL SOURCES: ADVANTAGES AND LIMITATIONS 15

 1.1 Police Statistics 15

 1.2 Victim Surveys 17

 1.3 Self-Report Surveys 18

2. THE INCIDENCE OF VIOLENT CRIME..... 19

 2.1 Murder and Attempted Murder..... 20

 2.2 Rape..... 27

 2.3 Aggravated Robbery..... 29

3. CONCLUDING COMMENTS 32

CHAPTER 4 THE POLICY RESPONSE 33

1. THE NATIONAL CRIME PREVENTION STRATEGY 33

2. LEGISLATION REGULATING FIREARMS IN SOUTH AFRICA 35

 2.1 The Arms and Ammunition Act no. 75 of 1969 36

 2.2 The Firearms Control Bill B34-2000 38

3. CONCLUDING COMMENTS 41

CHAPTER 5 THE SUBSTITUTION EFFECT AND DIFFERENTIAL LETHALITY 42

1. THE SUBSTITUTION EFFECT 43

 1.1 Firearm Homicides in South Africa 45

2. DIFFERENTIAL LETHALITY 46

 2.1 Firearm Robbery in South Africa 48

3. CONCLUDING COMMENTS 50

CHAPTER 6 SOURCES OF ILLICIT FIREARMS 51

1. CIVILIAN OWNED FIREARMS 55

2. STATE WEAPONS 56

3. WEAPONS SMUGGLING AND THE ILLEGAL ARMS TRADE 58

4. PRIVATE SECURITY COMPANIES 59

5. HOME-MADE FIREARMS 59

6. CONCLUDING COMMENTS 59

CHAPTER 7 DEFENSIVE GUN USE 61

1. THE EFFECTIVENESS OF DEFENSIVE GUN USE 62

2. THE PREVALENCE OF DEFENSIVE GUN USE 65

3. THE DETERRENT EFFECT 67

4. CONCLUDING COMMENTS 70

CHAPTER 8 TESTING THE CORRELATION 71

1. EVIDENCE FROM THE SADC REGION 72

2. INTERNATIONAL EVIDENCE FROM OUTSIDE THE SADC REGION 77

 2.1 Comparative Evidence 77

 2.2 Evidence from the U.S.A. 80

3. CONCLUDING COMMENTS 82

CHAPTER 9 CONCLUSION 83

BIBLIOGRAPHY 87

BOOKS AND MONOGRAPHS 87

CHAPTERS IN BOOKS AND MONOGRAPHS 88

JOURNAL AND NEWSPAPER ARTICLES 89

PUBLIC DOCUMENTS 90

UNPUBLISHED MATERIAL 91

SUBMISSIONS ON THE FIREARMS CONTROL BILL 92

LIST OF TABLES

TABLE	PAGE
TABLE 1. SELECTED CRIME RATIOS PER 100 000 JANUARY TO DECEMBER 1994-1999.....	22
TABLE 2. SELECTED CRIME RATIOS PER 100 000 FOR THE PROVINCES JANUARY TO DECEMBER 1999	22
TABLE 3. NUMBER OF MURDERS COMMITTED WITH FIREARMS 1994-1998	26
TABLE 4. NUMBER OF ATTEMPTED MURDERS COMMITTED WITH FIREARMS 1994-1998.....	26
TABLE 5. NUMBER OF FIREARM MURDERS BY PROVINCE IN 1998.....	26
TABLE 6. NUMBER OF SERIOUS ROBBERIES WITH A FIREARM 1994-1998.....	30
TABLE 7. NUMBER OF SERIOUS ROBBERIES WITH A FIREARM BY PROVINCE IN 1998	30
TABLE 8. MURDERS AND ATTEMPTED MURDERS BY WEAPON TYPE IN 1998.....	47
TABLE 9. FIREARMS LOST AND STOLEN 1996-1998	54
TABLE 10. ESTIMATES OF ILLEGAL FIREARMS IN CIRCULATION	54
TABLE 11. HOMICIDE RATES IN SIX SADC COUNTRIES	76
TABLE 12. WEIGHTED AVAILABILITY OF LEGAL PERSONAL PROTECTION FIREARMS AND HOMICIDE RATES FOR FIVE SADC COUNTRIES.....	77
TABLE 13. INTERNATIONAL COMPARISON OF HOMICIDE RATES PER 100 000 AND PERCENTAGE HOUSEHOLDS WITH GUNS.....	78

ACKNOWLEDGEMENTS

My sincere thanks to the following: Professor Schrire for his comments, suggestions, constructive criticism and general supervision; the UCT Scholarships committee for their financial support over the last three years as well as Judy Coxford and Ingrid Hastings for their help with the editing, proof-reading and production of this dissertation.

University of Cape Town

LIST OF ABBREVIATIONS

APLA	Azanian Peoples' Liberation Army
CIAC	Crime Information Analysis Centre
DGU	Defensive Gun Use
GBH	Grievous Bodily Harm
GFSA	Gun Free South Africa
HSRC	Human Sciences Research Council
ISS	Institute for Security Studies
MK	Umkhonto we Sizwe
NCPS	National Crime Prevention Strategy
NFF	National Firearms Forum
SADC	Southern African Development Community
SADF	South African Defence Force
SAPS	South African Police Service
SWA	South West Africa
TBVC	Transkei Bophutswana Venda Ciskei
UCA	United Christian Action

The style, formatting and system of referencing in this dissertation follows that set out in the sixth edition of Kate L. Turabian, *A Manual for Writers of Term Papers, Theses and Dissertations* (Chicago: University of Chicago Press, 1996). For referencing from the World Wide Web, Janice R. Walker and Todd Taylor, *The Columbia Guide to Online Style* (New York: Columbia University Press, 1998) has been utilised.

ABSTRACT

This dissertation evaluates the hypothesis that the implementation of stringent firearm control in South Africa will significantly decrease levels of violent crime. First, the specific dynamics of violent crime in this country are examined, in order to establish whether firearm control constitutes a fitting response to the problem. Second, some of the important theoretical underpinnings of the firearms control debate are considered.

Drawing heavily on police reports and victim surveys, it is determined that those crimes routinely perpetrated with a firearm are murder, attempted murder and robbery with aggravating circumstances. The defining features of these crime types are established with a focus on the victim-perpetrator relationship and the degree of premeditation and serious intent. Having ascertained the nature of the problem, an examination of the proposed solution ensues.

Relevant aspects of The National Crime Prevention Strategy are outlined, followed by a look at the perceived short-comings of the current *Arms and Ammunition Act no. 75 of 1969*. Pertinent clauses of the Firearms Control Bill B34 – 2000 (Revised Version) are examined and distinctions drawn between current legislation and the proposed Bill.

The discussion turns to the potential impact of effective firearm control on violent crime. For the three crime types under consideration, it is likely that many criminals would substitute another weapon in the place of a firearm. This could decrease the rate of homicide as assaults with a firearm are generally more lethal than knife attacks. However, given the specific role that firearms play in armed robberies, it is possible that the incidence of murder and attempted murder related to armed robbery might increase, as well as the incidence of armed robbery itself. Thus, effective firearm control may simultaneously increase and decrease incidents of violent crime.

The second part of the dissertation relies on international and indigenous research to evaluate three of the pivotal issues in the gun control debate. The first is that licensed civilian firearms

are frequently lost or stolen, thereby ending up in criminal hands. The potential sources of illicit arms are considered and it is concluded that decreasing the number of firearms licensed to civilians will not necessarily decrease the general availability of firearms to the criminal population.

Next, the effectiveness and the prevalence of defensive gun use is examined. It is found that firearms are frequently and effectively used to prevent the perpetration of violent crime. The possibility that civilian gun ownership acts as a general deterrent to criminals, is also investigated.

Finally, the alleged positive correlation between the prevalence of civilian gun ownership and the incidence of violent crime, is examined. It is found that international comparison yields no such evidence. Recent studies in fact find a *negative* correlation between high levels of civilian gun ownership and violent crime.

It is concluded that firearm control is most likely to simultaneously inhibit and exacerbate violent crime in South Africa. However, on the basis of the available evidence, it appears that the net effect could be an *increase* rather than a decrease in the incidence of violent crime.

CHAPTER 1 INTRODUCTION

South Africa is considered to be one of the most violent societies on earth. Of all countries reporting to Interpol in 1995, South Africa emerged as having the third highest murder rate in the world.¹

Daily, South Africans are bombarded with horror stories of gang warfare in Manenburg, taxi shoot-outs in Khayelitsha, bomb blasts in and around shopping malls and restaurants, not to mention the routine violence that forms a part of every day life for many.² Whilst media portrayal may in some instances be over-sensationalised, the picture that emerges is one of a society brutalised by violence and ravaged by crime.

Despite the large number of crimes that go unreported,³ even in terms of reported crimes and offences, the incidence of crime in South Africa vastly exceeds the world average.⁴ However, it is not crime levels per se, but rather the level of violence that accompanies crime that is the cause of gravest concern.

One important feature of crime in South Africa is the prevalent abuse of firearms and the magnitude of gun violence associated with crime and conflict. In 1998 alone, 12 298 individuals were murdered with a firearm (constituting 49 percent of all murders) and 74 854 robberies (comprising 84 percent of all serious robberies) were committed with a firearm.⁵

¹ Sarah Meek, "Legal Firearms in South Africa: A Part of the Problem," in *Society Under Siege: Managing Arms in South Africa*, Towards Collaborative Peace vol. 3, ed. Virginia Gamba (Institute for Security Studies: Pretoria, 2000), 40.

² For example see Judy Damon and Priscilla Singh, "Moves to Quell Taxi Violence," *Cape Times*, 4 July 2000; Gustav Thiel and Judy Damon, "Please Stop the Senseless Killing," *Cape Times*, 14 August 2000 and Marianne Thamm, "The Bomber who Keeps Calling," *Cape Times*, 12 September 2000.

³ Nedcor, "Executive Summary of the Main Report," in *The Nedcor Project on Crime, Violence and Investment* (Johannesburg: Nedcor, 1996), 2. The Nedcor report claims that underreporting could be as high as 50%.

⁴ Ibid. South Africa's recorded crime rate is 5 651 per 100 000 persons, with the international average at 2 662 per 100 000.

⁵ SAPS CIAC, cited in Robert Chetty, "Firearm Crime in South Africa," in *Firearm Use and Distribution in South Africa* (Pretoria: National Crime Prevention Centre, 2000), 19.

According to the United Nations International Study on Firearm Regulation, of sixty-nine countries surveyed, South Africa has the second highest level of gun murders after Columbia.⁶

Being one of the most serious challenges facing the South African government, the prevention of crime has been declared a national priority.⁷ In an attempt to provide a comprehensive framework under which crime prevention efforts could be co-ordinated, the National Crime Prevention Strategy (NCPS) was adopted in 1996.⁸ The NCPS pointed to the easy accessibility of firearms as a major contributor to violent crime.⁹ It identified both legal and illegal weapons as potential sources of criminal arms.¹⁰

Historically, legal gun ownership in South Africa has been the sole preserve of the white minority. However, subsequent to democratisation in 1994, the ownership of firearms has increased amongst the black population from 2 to 60 percent.¹¹ In the last five years the Central Firearms Registry has received between eighteen and twenty thousand firearm licence applications per month, indicating that the domestic demand for arms continues.¹²

Concern that licensed firearms contribute to high levels of violence in South Africa, resulted in the tabling of the Firearms Control Bill B34 - 2000 in an attempt to implement stricter control over legally owned firearms. The Bill was passed by the National Assembly and the National Council of Provinces on 12/10/2000 and awaiting only the signature of the President before being enacted.

⁶ *The United Nations International Study on Firearm Regulation* (United Nations: New York, 1998), cited in Claire Taylor, "Health, Human Rights and Firearms" (Paper presented to the 5th International Health and Human Rights Conference Cape Town South Africa 3-6th December 1998), 2.

⁷ Inter-departmental Strategy Team, *The National Crime Prevention Strategy: Summary* (Pretoria: Government Printer, 1996), 2.

⁸ *Ibid.*, 3.

⁹ *Ibid.*, 5.

¹⁰ Inter-departmental Strategy Team, *National Crime Prevention Strategy* (Pretoria: Government Printer, 1996), 22.

¹¹ *The Sunday Independent*, 6 October 1996, cited in Desiree Hansson, "Guns and Control in South Africa: A Case Study of Fatal Gun Use in Metropolitan Cape Town, 1984-1991, with a Critical Examination of Broader Issues" (Ph.D. diss., University of Cape Town, 1998), 68.

¹² Gun Free South Africa, "Statistics Sheet," 7 April 1999, cited in Katherine McKenzie, "Domestic Gun Control Policy in Ten SADC Countries" (Unpublished Research Report commissioned by Gun Free South Africa, 1999),

1. THE GUN CONTROL DEBATE

Debates on gun violence and gun control have flourished in other countries for decades and spawned great volumes of literature, most notably in the U.S.A. However, in South Africa it is only in the last decade that the debate has come to the fore.

In reality, firearm control is not an all or nothing policy. There is a range of various potential control mechanisms including restrictions on certain types of firearms, most commonly handguns; mandatory “cooling off periods” before a firearm can be acquired, background checks on prospective firearm owners, stricter licensing procedures, total prohibition on civilian firearm ownership etc.¹³ Each of these mechanisms can be situated somewhere along a continuum of relative stringency of control they afford the governing body. The gun control controversy is not essentially about whether guns should be regulated or not, but the degree to which gun possession should be restricted.¹⁴

Despite this, the intensity of emotion surrounding issues of firearm violence, ownership and control, tends to result in a glossing over of the nuances of various positions. Typically the gun control debate generates two distinct opposing camps (the “gun control / prohibitionist lobby” and the “gun lobby / anti-gun control lobby”) and undermines the development of a centrist consensus. On the one side there are those who would permit the majority of law abiding adults to legally possess firearms, with gun ownership prohibited only among non-adults and those prone to violence, including offenders, the mentally ill and substance abusers. On the other side there are those who would completely prohibit private firearm ownership. Given that the former kind of regulation has been common in many Western countries for years and that the alleged correlation between civilian owned firearms and criminal violence remains unproven, the burden of proof is often seen to lie with those advocating more restrictive policies.

¹³ Anthony Minnaar, “A Plague of Guns: The Proliferation of Firearms,” in *Crime and Conflict* no. 14 (Summer 1998), 26.

¹⁴ Hansson, “Guns and Control,” 6.

The Firearms Control Bill is situated squarely in the latter camp. Despite the fact that at this stage civilian gun ownership is not completely prohibited, the Bill is applauded as a move towards much greater control over firearms in South Africa. Complete prohibition is seen as desirable but politically unfeasible at this point in time.¹⁵

This dissertation attempts to evaluate the hypothesis that the implementation of a policy of stringent firearm control in South Africa will significantly decrease levels of violent crime. Stringent gun control as a distinctive policy position will come under scrutiny, rather than the merits and demerits of specific clauses of the Firearms Control Bill.

I intend to examine whether or not firearm control, if effectively implemented, is likely to decrease levels of violent crime in South Africa. This assessment will take place on two levels. First, I will attempt to establish whether, given the specific dynamics of violent crime in South Africa, firearm control is a fitting response to the problem. Second, on a more theoretical level, I will attempt to evaluate the efficacy of firearm control as a policy in general.

Chapter 2 reviews literature pertinent to the current gun control debate. It draws on some of the relevant international literature, predominantly from the United States, as well as indigenous research.

Chapter 3 dis-aggregates violent crime statistics and examines the defining features of different types of violent crime, with a special focus on crimes routinely perpetrated with a firearm. The main aim of this chapter is to establish with some degree of precision, the exact nature of the problem that the policy of firearm control attempts to address.

¹⁵ Steve Tshwete cited in Mandie Huisamen, "Reducing Gun Violence in South Africa" in *Servamus* (May 2000), 26-27; and Dullah Omar cited in, "Too early to scrap guns, Omar says," in *Electronic Mail and Guardian*, 4 November 1997, cited in Meek "Legal Firearms in South Africa," 6.

Chapter 4 is concerned with the specifics of the government's policy response to the problem of violent crime. Relevant aspects of The National Crime Prevention Strategy are outlined, providing the context to the adoption of a policy of strict gun control. The perceived shortcomings of the current *Arms and Ammunition Act* are covered briefly, followed by a more detailed look at relevant clauses of the Firearms Control Bill.

Chapter 5 explores the prospects of a decrease occurring in the incidence of murder, attempted murder and robbery, as a result of the implementation of strict firearm control. In the course of this analysis, chapter 5 examines the assertion that violent encounters involving firearms are more deadly than those involving other weapons.

Chapters 6 to 8 are concerned with three of the most important tenets of the argument for strict gun control. These chapters attempt to evaluate the merits of these claims by examining the available evidence in order to determine whether stringent gun control measures are likely to have the desired effect.

Chapter 6 examines one of the primary claims of the argument for stringent control of civilian owned firearms, namely that firearms licensed to civilians fuel supplies of illicit arms as they are frequently lost or stolen thereby ending up in criminal hands. The potential sources of illicit arms are considered including civilian owned firearms, state owned weapons, weapons smuggling and the illegal arms trade, private security companies and home-made firearms.

Chapter 7 considers the pivotal issue of defensive gun use. Firearms can potentially be used both to perpetrate a violent crime and to prevent the perpetration of crime. This chapter examines the effectiveness of firearms in civilian hands as a deterrent to violent crime as well as the prevalence of defensive gun use.

Chapter 8 examines the most basic presupposition of the argument for restrictive gun control and investigates whether a positive correlation between the prevalence of civilian gun ownership and the incidence of violent crime can be empirically demonstrated.

Chapter 9 concludes that firearm control is most likely to simultaneously inhibit and exacerbate violent crime in South Africa. However, on the basis of the available evidence, it appears that the net effect could be an *increase* rather than a decrease in the incidence of violent crime.

2. DEFINITIONS AND PARAMETERS

All the acts under consideration in this dissertation are proscribed by law; thus utilising a traditional definition of crime as, “behaviour that is prohibited by the criminal code”¹⁶ is unproblematic.

Following Englander, violence is defined as “aggressive behaviour with the intent to cause harm (physical or psychological).”¹⁷ The issue of intent is central to the definition, as the absence of intent renders the harm accidental. Accidental and self-inflicted violence will be excluded, as the current author seeks only to establish the efficacy of gun control in curtailing those violent crimes intentionally inflicted by one individual/group of individuals on another individual/group of individuals. The effect of gun control on suicide rates or accidental shootings is not considered, despite the role that these may play in the decision to adopt a more restrictive gun control policy. Acts of violence against property will also be excluded, as will all non-violent criminal acts. Thus, those crimes under consideration include murder, attempted murder, aggravated robbery, rape, common assault and serious assault.

¹⁶ J. Michael and M. Adler, *Crime, Law and Social Science*, 1933, cited in John Muncie and Eugene McLaughlin eds., *The Problem of Crime* (London: Sage Publications, 1996), 8.

¹⁷ Elizabeth K. Englander, *Understanding Violence* (New Jersey: Lawrence Erlbaum Associates Inc., 1997), 1.

CHAPTER 2 LITERATURE REVIEW

1. SOUTH AFRICAN LITERATURE

Desiree Hansson's dissertation ¹ is a useful resource that focuses on the fatal use of guns by civilians, police and private security officers in the Cape Town area prior to 1991. While her dissertation covers the period prior to democratisation and her focus is not specifically on the criminal use of firearms in the perpetration of violent crime, it provides a useful review of South African and international research. In a manner somewhat unique to the South African literature, it specifically delineates all the major issues inherent in the gun control debate such as the lethality of firearms relative to other weapons, the possible substitution effect if access to firearms is curtailed, defensive gun use etc. In particular, her dissertation gives a unique insight into firearm related issues in the previous dispensation. In that way it provides a background to the current firearm control debate.

The most comprehensive work to date on firearm distribution in South Africa has been compiled by Robert Chetty ² of the National Secretariat for Safety and Security. Chetty aims to provide policy makers with fundamental data relating to firearm proliferation in South Africa. Chetty's compilation of material on firearm- related crime, firearm deaths and injuries as well as a detailed account of the distribution of licensed firearms in South Africa, is an invaluable source of statistical information. His book is effectively an audit of the available factual information pertaining to firearms and he deliberately presents the data without commentary or interpretation.³

Despite Chetty's attempt at objectivity, one of the basic presuppositions of the research is that the proliferation of firearms contributes to high levels of violence in South Africa. In the

¹ Desiree Hansson, "Guns and Control in South Africa: A Case Study of Fatal Gun Use in Metropolitan Cape Town, 1984-1991, with a Critical Examination of Broader Issues" (Ph.D. diss., University of Cape Town, 1998).

² Robert Chetty ed., *Firearm Use and Distribution in South Africa* (Pretoria: National Crime Prevention Centre, 2000).

³ Robert Chetty, introduction to *Firearm Use and Distribution*, 8.

foreword Dr. Fanaroff writes, “There is no doubt that the easy availability of firearms contributes to the high level of violence and violent crime.”⁴ It is this very pre-existing presumption that undermines the validity of most of the research in this area.

While the factual information presented in his book is undoubtedly valid, the way in which information is presented as well as certain omissions, belie the predisposition of the authors. No attempt is made to detail those cases where individuals have effectively used their firearms to deter violent criminals, only those in which firearms have been wrongfully used. Rather than the focus of the book being on firearm use as the title would suggest, all the information presented relates to the abuse of firearms in South Africa. Nonetheless, the information provided is an extremely useful compilation of official data.

Whereas Chetty aims to provide policy makers with raw factual data pertaining to firearms in South Africa, Gamba⁵ attempts to use available research to persuade policy makers on the need for more stringent gun control. Of all the South African publications considering firearms and related issues in the post-apartheid era, *Society Under Siege: Managing Arms in South Africa* is one of the most academically sound and fair treatments of selected aspects of the topic, despite its avowed commitment to strict gun control. The research conducted is reliable, well informed and the claims made are well substantiated.

This book is primarily concerned with the connection between legal weapons, illegal weapons and the culture of violence in South Africa. It highlights the regional flow of illicit weapons explaining how the flux of weapon’s flow depends largely on supply and demand. It also discusses how the distinction between legal and illegal weapons becomes blurred through the loss and theft of licensed weapons. This publication specifically aims to be policy relevant⁶ and contains recommendations for the revision of firearm legislation in South Africa.

⁴ Bernard Fanaroff, foreword to *Firearm Use and Distribution*, ed., Robert Chetty, 7.

⁵ Virginia Gamba ed., *Society Under Siege: Managing Arms in South Africa*, Towards Collaborative Peace vol. 3 (Institute for Security Studies: Pretoria, 2000).

⁶ Virginia Gamba, preface to *Society Under Siege*, xiii.

The findings contained in *Society Under Siege: Managing Arms in South Africa* are certainly important and cognisance must be taken of them. However, the authors make an ardent plea for stricter gun control on the basis of their research findings, while neglecting to investigate other relevant factors that impinge heavily on the relative efficacy of stringent gun control measures.

Anthony Albekker's case study ⁷ on gun crime and self-defence, is one of the few South African studies that focuses specifically on the issue of defensive gun use. The scarcity of indigenous research in this area is unfortunate given the pivotal place it deserves in the gun control debate.

Altbekker reviewed 602 police dockets on violent crimes occurring in Alexandra and Bramley in early 1997. He found that only fifty (8 percent) of the victims had a licensed firearm with them at the time of the attack. In only one quarter of these cases was the victim able to use a firearm in self-defence. Albekker uses these results to assert that victims were four times more likely to have their firearms stolen than to use them in self-defence.⁸

This statement certainly holds true for the cases that Albekker examined. However, these were by definition cases in which the perpetration of a crime had been successful. It ignores the entire set of cases in which crimes were prevented by the defensive use of a gun. For this reason, his findings are not generalisable and give little or no indication of the prevalence or effectiveness of defensive gun use in South Africa.

⁷ Anthony Albekker, "Guns and Public Safety: Gun Crime and Self-Defence in Alexandra and Bramley" (Unpublished Research Report commissioned by Gun Free South Africa, 1999).

⁸ Albekker, "Guns and Public Safety," 2.

By contrast, research conducted by John Mann in 1994, according to Hammond detailed 206 cases in which civilians had used licensed firearms to defend themselves. In 36 percent of the cases the attackers were killed or arrested by their intended victims and 64 percent of attackers fled. Eight of the victims died in the confrontation and no innocent bystanders were injured or killed.⁹ While this study alone cannot paint an accurate picture of defensive gun use in South Africa, it certainly seems to indicate that the utilisation of a firearm for self-defence may be more effective and prevalent than gun control advocates would like to concede.

Katherine McKenzie's work¹⁰ attempts to substantiate the basic presupposition of the gun control movement. By examining evidence from countries in the Southern African Development Community (SADC) she endeavours to establish the alleged correlation between the prevalence of civilian gun ownership and levels of violent crime. From a comparison of ten case studies McKenzie concludes that "the convergence of poverty, unemployment, a gun culture and the availability of firearms is a lethal combination which results in high levels of gun crime."... "Countries in the region with effective gun control policies and fewer firearms in circulation, have less gun crime and are safer than countries with permissive gun control policies and more firearms in circulation."¹¹

McKenzie's work has been subject to much criticism, most notably from Richard Wesson.¹² Wesson considers those countries for which McKenzie provides murder rates and calculates an estimated murder rate for Zimbabwe. Motivating for the exclusion of Swaziland and South Africa on the basis of their dissimilarity to the other cases in important respects, he analyses the remaining cases. Wesson finds that in fact there appears to be a *negative* correlation between "ease with which private civilians can obtain firearms" and homicide levels.¹³

⁹Peter Hammond, "The Proposed Firearms Control Bill, Government Gazette 21193," (United Christian Action Submission on Firearms Control Bill, 2000) (<http://www.pmg.co.za/FirearmsBill.UCA.htm>) (03/08/2000).

¹⁰ Katherine McKenzie, "Domestic Gun Control Policy in Ten SADC Countries" (Unpublished Research Report commissioned by Gun Free South Africa, 1999).

¹¹ *Ibid.*, 3.

¹² Richard Wesson, "An Inspection into the Relationship Between Murder Rates and Legalised Private Ownership of Firearms in Southern Africa, with Special Regard to South Africa," 1999 (http://www.geocities.com/gnostos_2000/Gunrep.htm) (17/04/2000).

¹³ *Id.*

Both McKenzie and Wesson provide an interesting foray into aspects of the domestic gun control debate, but neither study in its current form holds up to scientific scrutiny. Even rudimentary quantitative analysis of the qualitative data gathered by McKenzie certainly does not support her conclusion as Wesson amply demonstrates. Despite the potential of Wesson's work, it is limited by the fact that it is primarily a response to McKenzie and other gun control advocates, rather than a proactive study in its own right. In both cases the results and conclusions must be treated with caution. What both documents illustrate most of all, is the need for further, more comprehensive research in this area.

South African research into firearm control and related issues is most notable for its scarcity and manifold limitations. Of the studies that have been conducted, most have been funded and commissioned by those with an outspoken predisposition towards stringent gun control such as Gun Free South Africa. Consequently, the research tends to be rather one-sided which results in an impoverished policy debate in the halls of power that lacks rigour and precision.

2. INTERNATIONAL LITERATURE

Research from abroad, and the U.S.A. in particular, is much more diverse and comprehensive and has generated important data which reflects on the efficacy of gun control in curtailing violent crime in other countries. In America specifically, the debate on weapons and crime is much more robust than in South Africa, given the sophistication of the "gun lobby", the longevity of the debate and the existence of outspoken academics and activists on either side.

In the late 1970s Wright, Rossi and Daley undertook a comprehensive review of all the available American literature pertaining to weapons, crime and violence.¹⁴ Despite being almost two decades old *Under the Gun: Weapons, Crime and Violence in America* provides a very useful review of the research conducted to that point. Some of the main issues examined include, whether or not a causal link between private civilian firearm ownership and violent

¹⁴ James D. Wright, Peter H. Rossi, and Katherine Daly, *Under the Gun: Weapons, Crime and Violence in America* (New York: Aldine Publishing Company, 1983).

crime can be demonstrated, the alleged deterrent effect of civilian gun ownership, the intrinsic lethality of firearms and the effect of weapons control legislation on violent crime. After surveying the available evidence, Wright, Rossi and Daley concluded that most of the research was marred by severe methodological shortcomings and on the whole, the evidence was inconclusive.¹⁵

In 1982 Wright and Rossi undertook ground breaking research of their own¹⁶ in which questionnaires were administered to almost two thousand convicted felons in correctional services facilities across the United States. Prisoners were questioned on the acquisition, carrying and use of guns and other weapons in criminal acts.

Of particular relevance is their finding that the prospect of meeting an armed victim seemed to have a fairly large deterrent value. About three fifths of their sample agreed that "a criminal is not going to mess around with a victim he knows is armed with a gun." Four fifths agreed that "a smart criminals always tries to find out if his potential victim is armed."¹⁷ One of their most oft quoted findings is that three fifths of their sample were more concerned about meeting an armed victim than running into the police.¹⁸ While the vast majority of felons were not concerned about being arrested or imprisoned, they were certainly concerned about the prospect of meeting an armed victim.¹⁹

It also appears that this concern actually affected criminal behaviour. Data reported later indicated that about two fifths of the sample had at some time chosen not to commit a crime because they knew or believed their potential victim to be armed.²⁰ One third reported that they had actually been "scared off, shot at, wounded or captured by an armed victim."²¹

¹⁵ Ibid., 12.

¹⁶ James D. Wright and Peter H. Rossi, *Armed and Considered Dangerous: A Survey of Felons and their Firearms* (New York: Aldine De Gruyter, 1986).

¹⁷ Ibid., 145.

¹⁸ Ibid., 147.

¹⁹ Ibid., 144-145.

²⁰ Id.

²¹ Ibid. 154.

Wright and Rossi's findings support the claim that civilians armed with firearms constitute a significant deterrent to the criminally inclined. Their work suggests that defensive gun use may be both effective and fairly frequent, judging from felon's encounters with armed victims.

Kleck and Gertz²² set out to determine how frequent defensive gun use (DGU) actually is in the United States. They conducted a comparatively large telephonic survey amongst the American population, making a special attempt to correct the errors and methodological shortcomings of previous surveys. Their results indicate that there are approximately 2.2 to 2.5 million incidents of DGU in the United States each year. If this is the case then incidents of DGU outnumber the use of guns to perpetrate a crime, four to one. These results imply that restrictions imposed on civilian ownership of firearms in order to reduce incidents of violent crime, would be counter-productive.

While Kleck and Gertz's results do not shed light on the frequency of DGU in South Africa, they do suggest that DGU may be more frequent than often asserted. Given the weighty consequences of the relative frequency of DGU, it is vital that a more concerted effort be made to establish the regularity with which this phenomenon occurs in South Africa.

Lott and Mustard's research²³ is consistent with the findings of Kleck and Gertz. Using cross-sectional time-series data for U.S. counties from 1977 to 1992, Lott and Mustard found that allowing citizens to carry concealed weapons deterred violent crime. When state concealed handgun laws went into effect in a county, murders fell by 7.65 percent, rapes by 5 percent, aggravated assaults by 7 percent. Lott and Mustard also found evidence that criminals were deterred from confrontational crimes, rather engaging in less confrontational property crimes.²⁴

²² Gary Kleck and Marc Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defence with a Gun," in *Journal of Criminal Law and Criminology* vol. 86 (Fall 1995).

²³ John R. Lott, Jr. and David B. Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns," in *Journal of Legal Studies* vol. 26 (1997) (<http://www.journals.uchicago.edu/JLS/lott.pdf>) (15/08/2000).

²⁴ *Ibid.*, 1.

3. CONCLUDING COMMENTS

As Wright, Rossi and Daley point out it is unwise to take the literature on weapons and crime as a lesson in scientific objectivity.²⁵ Firearm violence and gun control are very emotive issues and research has often been conducted by stakeholders already firmly entrenched on one side or other of the great divide.

Much of the research is genuinely impaired by methodological shortcomings. It appears that in some cases the research design itself has predetermined the outcome, thus undermining the validity of the research findings. However, this criticism is also blatantly utilised by some merely to discredit any research that opposes their point of view. Despite claims to the contrary, it does appear that Kleck and Gertz²⁶ and Lott and Mustard²⁷ have managed to overcome the methodological flaws hampering much of the research in this area.

In South Africa it appears that much research has been done specifically with policy makers in mind. Although there is definitely a need for policy relevant research, this has resulted in a bias towards formulating the somewhat contradictory research findings into a coherent public policy. As this dissertation will highlight, effective firearm control may simultaneously promote and hamper violent crime in South Africa. The net effect of these opposing tendencies, remains to be seen.

²⁵ Wright, Rossi and Daly, *Under the Gun*, 3.

²⁶ Kleck and Gertz, *Armed Resistance to Crime*.

²⁷ Lott and Mustard, *Crime and Deterrence*.

CHAPTER 3 A PROFILE OF VIOLENT CRIME IN POST- APARTHEID SOUTH AFRICA

Policy responses to South Africa's burgeoning crime problem need to be grounded in an accurate understanding of the current realities. Statistical evidence, despite its shortcomings, provides important information on the crime situation and can be used to inform crime-fighting efforts.

1. STATISTICAL SOURCES: ADVANTAGES AND LIMITATIONS

There are three main sources of crime statistics: police or government department crime statistics, victim surveys and self-report surveys,¹ each of which is subject to inherent shortcomings. In South Africa self-report surveys have been under-utilised and currently most statistical information is generated by the police and victimisation surveys.²

1.1 Police Statistics

Until recently, the South African Police Service (SAPS) Crime Information Analysis Centre (CIAC) published semester and monthly reports on the twenty most serious crime tendencies in South Africa.³ Crimes pertinent to this discussion fall mainly under the classification of violent and social fabric crimes. The category "violent crime" comprises murder, attempted murder and robbery with aggravating circumstances. Robbery with aggravating circumstances includes car hijacking, hijacking of trucks, robbery of cash-in-transit and bank robbery as well as other acts of robbery involving a high level of violence or the threat thereof. "Social

¹ Caution should be exercised when using a compilation of data gathered from various sources as definitions and classifications are not standard across the board. Crimes are sometimes classified differently by the police and victim surveys, making data from these sources not directly comparable.

² Some medical statistics, such as the number of patients with firearm related injuries treated in hospitals, can be used to supplement or verify official crime statistics. These should also be used with caution as only the injury sustained is recorded and not the circumstances surrounding the incident. It is these circumstances which would determine whether the act which inflicted the wound should be considered a criminal act or a non-criminal act such as in the case of self-defence or a lawful police shooting.

³ Steve Tshwete, the Minister for Safety and Security, made a public announcement on 20/7/2000 declaring a moratorium on all crime statistics for the year 2000 onwards.

fabric crimes” cover rape, common assault and assault GBH (assault with intent to inflict grievous bodily harm).⁴

Whilst no doubt every effort is made to ensure the accuracy of this data, there are reasons that official police statistics should be used circumspectly.

The first reason is that of underreporting to police. This is not a peculiarly South African phenomenon, but given the historical mistrust of the police, underreporting may be especially high at least with regard to certain crimes.⁵ Secondly, in South Africa police statistics reflect only those cases in which a docket has been opened. Where the victim is related to the perpetrator, the victim often decides to drop the charges and these cases are then not reflected in police statistics.⁶

There are also crimes, such as illegal possession of firearms, which are heavily dependent on the police for detection as there is no complainant to report the crime. An increase or decrease in these figures may reflect more on policing and detection than on an actual fluctuation in the incidence of this crime. In any event these statistics reflect only those crimes which the police uncovered which may constitute a fraction of the real number of criminal incidents.

For the reasons cited above, caution needs to be exercised when utilising police statistics to calculate the exact extent of any particular crime. However, assuming that, all other things being equal, underreporting and other errors are fairly consistent over time; police statistics are fairly reliable indicators of short-term crime trends. The CIAC reports also provide valuable information on some of the circumstances surrounding selected crimes. This proves beneficial when devising intervention strategies.

⁴ SAPS CIAC, “The Crime Situation at National, Provincial, Area and Station Level,” in *Semester Report 1/2000* (http://www.saps.org.za/8_crimeinfo/12000/CrimeSituation.htm) (13/08/2000).

⁵ Lala Camerer et al., *Crime in Cape Town: Results of a City Victim Survey* in ISS Monograph no. 23 (<http://www.iss.co.za/Pubs/MONOGRAPHS/No.%2023/Reporting.html>) (23/04/2000).

⁶ Englander, *Understanding Violence*, 13.

Unfortunately police databases were not designed for analytical purposes. They do not take account of explanatory variables and do not link crime statistics or occurrences with socio-economic, demographic and policing data⁷. If this could be rectified it would aid in ascertaining the relationships between different types of crime and some of these variables. In the mean time victim surveys provide a valuable source of information on the relationship between the incidence of crime and some of these explanatory variables.

1.2 Victim Surveys

Victim surveys such as those conducted by the Institute for Security Studies (ISS) in 1998 are the second source of crime statistics.⁸ These surveys have the advantage that victims may be more forthcoming with a civilian interviewer than with the police. Victim surveys also provide valuable information about the relationship between victimisation and life circumstances such as socio-economic status, geographic variants, and demographic variables on which official statistics are often mute.⁹ Being able to identify who is most at risk (as these surveys interview both those who have been victimised and those who have not) is very valuable in identifying the groups most vulnerable to certain crime types.¹⁰ Victim surveys can also aid in establishing the magnitude of underreporting to the police. In this way they are able to help provide a more accurate picture of the full extent of crime.¹¹

The main shortcoming of these surveys is that human memory is fallible. The respondent's reporting may be inaccurate especially if the crime was perpetrated some time before the survey was conducted.¹² Also the results generated by various surveys may differ because of disparate sampling methods.

⁷ SAPS CIAC, "The Generators of Crime in South Africa," in *Semester Report 1/2000* (http://www.saps.org.za/8_crimeinfo/12000/generators.htm) (13/08/2000).

⁸ Camerer et al., *Crime in Cape Town* and Antoinette Louw and Mark Shaw et al., *Crime in Johannesburg: Results of a City Victim Survey*, Monograph no. 18 (<http://www.iss.co.za/Pubs/MONOGRAPHS/No.%2018/Victims.html>) (15/08/2000).

⁹ Ibid., 3.

¹⁰ Antoinette Louw, "Comparing Crime in South Africa's Major Cities: Results of Four City Victim Surveys," in *African Security Review*, vol. 8 no.1 (<http://www.iss.co.za/Pubs/ASR/8.1/comparing%20crime/html>)(24/4/2000).

¹¹ According to Camerer et al., *Crime in Cape Town*, the levels of reporting ranged from 93 % in the case of murder to 36 % in the case of sexual assault and as low as 25 % in the case of sexual harassment.

¹² Englander, *Understanding Violence*, 14-15.

1.3 Self-Report Surveys

Crime statistics can also be gathered from self-report surveys where perpetrators themselves divulge information about crimes that they have committed and other pertinent information.¹³ It is improbable that hardened criminals will voluntarily confess to their crimes. However, conducting these surveys amongst the general public is useful in terms of eliciting information about crimes like domestic violence where questions can be framed in such a way that people do not feel they are implicating themselves or making themselves liable to prosecution.

Surveys can also be done amongst convicted felons,¹⁴ which may provide valuable insight into the mentality and motivation of the criminal. Unfortunately, this kind of survey has proved difficult in South Africa. A project was launched by the CIAC to establish the role that HIV/AIDS myths play in the perpetration of rape, but had to be aborted because of a lack of co-operation by the offenders.¹⁵

The International Arrestee Drug Abuse Monitoring Programme (I-ADAM) only recently commenced in South Africa but appears to be having more success. The pilot studies all indicate a strong double nexus between alcohol and /or drug abuse and crime. The contention is that often people commit crime under the influence of alcohol and/or drugs. Their habit may also become very expensive to maintain and in this way “impel” them to participate in criminal activities.¹⁶

It would be very valuable if self-report surveys could be utilised to shed some light on various blind spots in our knowledge about criminality in South Africa. For instance, the efficacy of deterrents such as sentence length, arrest and conviction rates, or an armed citizenry, the primary motivations for criminal involvement in certain crimes, incentives and disincentives of a life of crime and the ease with which weapons can be obtained, could be explored.

¹³ Ibid., 15.

¹⁴ Such as the survey conducted by in the U.S.A. by Wright and Rossi, *Armed and Considered Dangerous*.

¹⁵ SAPS CIAC, “Statistical Analysis of Reported Rape Cases,” in *Semester Report 1/2000* (http://www.saps.org.za/8_crimeinfo/12000/rapeanalysis.htm) (13/08/2000).

¹⁶ SAPS CIAC, “Generators of Crime.”

2. THE INCIDENCE OF VIOLENT CRIME

In South Africa the level of violent crime is extraordinarily high and of utmost concern to the government and population alike.¹⁷ Approximately one third of all reported crimes in South Africa are violent in nature, including murder, attempted murder, robbery, assault (common and GBH) and rape. The murder rate stands at about eight times the international average¹⁸ and South Africa is reported to have one of, if not *the*, highest rape rate in the world.¹⁹

The need to develop effective strategies to combat violence in South Africa requires that violent crime be dis-aggregated and that the specifics surrounding the incidence of each crime type be understood. It is contended that the dynamics surrounding a gang rape differ substantially from those involved in a bank robbery or cash-in-transit heist. If this is the case then no “catch all” policy will effectively deter all types of violent crime equally. However, there are commonalities that all gang rapes or bank robberies share that are relevant to preventative initiatives. Compiling a profile of the typical incident of each type of violent crime aids in tailor making interventions to address that particular crime type.

For the purposes of evaluating the potential impact of strict firearm control on violent crime, it is important to establish the set of violent crimes routinely perpetrated with a firearm. It is unreasonable to contend that a crime not perpetrated with a firearm would have been precluded by preventing the perpetrator having had access to a firearm.

Whilst any crime can potentially involve the use of a firearm, police classification distinguishes between crimes on the basis of the level of violence involved. Weapon use is one of the factors taken into account. Common assault, by definition, excludes the use of a

¹⁷ Inter-departmental Strategy Team, *NCPS*, 4; Helen Taylor and Robert Mattes “The Public Agenda” in *Opinion 1999*, Press Release, 24 May 1999

(http://www.idasa.org.za/pos/op99/op99_no34.htm?NS-se...sd5.1ff319&NS-doc-offset=0) (15/05/00).

¹⁸ Nedcor, *Nedcor Project on Crime*, 6-7.

¹⁹ SAPS CIAC, “Annexure E” to *Semester Report on the Incidence of Serious Crime in South Africa January to December 1998*, Semester Report 1/99 (Pretoria, 1999).

weapon and is, therefore, omitted from further analysis in this regard. Assault GBH could conceivably involve use of a firearm, but in reality all non-fatal attacks with a firearm are recorded as attempted murder.²⁰ Thus, using official police categories those crimes that could potentially involve the use of a firearm are murder, attempted murder, rape, robbery with aggravating circumstances and attempted robbery with aggravating circumstances.

For the purpose of developing intervention strategies, it is useful to classify violent crimes on the basis of the victim-perpetrator relationship and the degree of organised intent. Following the World Health Organisation²¹ violence can be classified as:

- Intimate Violence (abuse of children, spouse or partner)
- Acquaintance Violence (such as between drinking partners, date rape)
- Stranger violence (most aggravated robbery)
- Organised Violence (such as factional conflicts and taxi-violence)
- Self-directed violence (suicide and self-mutilation)

These categories will be utilised in the following examination of violent crime in South Africa in an attempt to establish the relative frequency of each type of violence for each relevant crime type.²² Attempting to determine the proportion of murders, robberies etc that are a result of each type of violence, aids in formulating an appropriate intervention.

2.1 Murder and Attempted Murder

CIAC figures indicate that murder and attempted murder decreased during the period 1994 to 1999.²³ Given the high degree of the reporting of murder,²⁴ of all the crime statistics available, these figures are probably the most accurate.

²⁰ Chetty, "Firearm Crime in South Africa," 26.

²¹ The World Health Organisation, *Violence: A Public Health Priority* (Unpublished Memo) cited in Alexander Butchart, Johan Kruger and Victor Nell, "Neighbourhood Safety: A Township Violence and Injury Profile," in *Crime and Conflict* no. 9 (Winter 1997), 13.

²² As previously explained, self-directed violence will be excluded from analysis.

²³ SAPS CIAC, "Table 1," in *Semester Report 1/2000* (http://www.saps.org.za/8_crimeinfo/12000/Table1.htm) (13/08/2000).

²⁴ Hirschowitz et al., *Victims of Crime Survey*, (Pretoria: Statistics South Africa, 1998), 53 and Camerer et al. *Crime in Cape Town*.

Murder decreased in real figures and in terms of the ratio per 100 000 in the period 1994 to 1999, whilst for attempted murder the actual number of attempted murders was in fact higher in 1999 than 1994.²⁵ However, given the population increase in those five years the ratio of attempted murders per 100 000 decreased. The decrease in murders may be partially related to a decrease in political violence that began to wane in the years subsequent to 1994.²⁶

An interesting feature of the murder and attempted murder figures is that while murder decreased from 69.5 per 100 000 in 1994 to 55.3 per 100 000 in 1999, attempted murder decreased from 70.7 per 100 000 in 1994 to 66.6 in 1999.²⁷ Thus the rate of murder has dropped to a much greater degree than the rate of attempted murder. This would indicate that there has been a much smaller decrease in potentially fatal attacks, than the murder figures alone would appear to indicate.

The national *Victims of Crime Survey* revealed that 73.4 percent of all murders were perpetrated with a weapon. Of those perpetrators carrying a weapon, 58 percent were armed with a gun and 42 percent with a knife or other sharp object. Where the perpetrator was unarmed, death was by beating, assault, throwing off train, strangulation etc.²⁸

SAPS data indicate that whilst murder and attempted murder have been on the decrease since 1994, the number of murders committed with firearms has been steadily increasing from 41 percent in 1994 to 49 percent in 1998. Interestingly, the use of firearms utilised in attempted murders has been steadily decreasing from 86.7 percent of all attempted murders in 1994 to 74.7 percent in 1998. It should be noted that the statistics concerning the use of weapons in attempted murders are somewhat misleading as almost all non-fatal attacks with a firearm are recorded as attempted murder whereas attacks with a knife or other weapon tend to be recorded as assault GBH.²⁹

²⁵ SAPS CIAC, "Table 1."

²⁶ Mark Shaw, "Violent Crime in South Africa," in *Firearm Use and Distribution*, ed. Robert Chetty, 13.

²⁷ SAPS CIAC, "Table 1."

²⁸ Hirschowitz et al., *Victims of Crime Survey*, 50-51.

²⁹ Chetty, "Firearm Crime in South Africa," 26.

**TABLE 1. SELECTED CRIME RATIOS PER 100 000
JANUARY TO DECEMBER 1994-1999**

	1994	1995	1996	1997	1998	1999
Murder	69.5	67.5	63.9	59.6	59.0	55.3
Attempted Murder	70.7	67.2	70.7	68.3	69.8	66.6
Aggravated Robbery	219.8	202.8	166.7	169.0	209.6	225.7
Carjacking	-	-	31.9	31.6	35.9	35.9
Hijacking (trucks)	-	-	9.2	10.4	13.7	12.8
Robbery of cash-in-transit	-	-	1.0	0.6	0.5	0.5
Bank robbery	-	-	1.6	1.2	1.1	1.1
Rape	109.8	120.3	125.1	126.5	117.0	119.0
Assault GBH	544.3	559.8	571.2	568.9	555.6	595.6
Common Assault	501.6	519.5	509.0	489.6	473.1	515.4

(Source: SAPS CIAC, Semester Report 1/2000)

**TABLE 2. SELECTED CRIME RATIOS PER 100 000 FOR THE PROVINCES
JANUARY TO DECEMBER 1999**

CRIME	RSA	PRV 1	PRV 2	PRV 3	PRV 4	PRV 5	PRV 6	PRV 7	PRV 8	PRV 9
VIOLENT CRIMES										
Murder	55.3	WC 81.2	KZN 70.2	GN 69.0	NC 60.9	EC 59.0	FS 39.6	MPL 37.8	NW 33.9	NP 17.1
Attempted murder	66.6	GN 90.1	WC 87.2	KZN 84.4	MPL 59.0	NW 57.8	NC 53.5	EC 52.7	FS 43.5	NP 27.7
Aggravated Robbery	225.7	GN 585.0	KZN 247.2	WC 199.1	MPL 154.2	NW 125.7	EC 105.1	FS 78.0	NP 48.9	NC 45.8
SOCIAL FABRIC CRIMES										
Rape	119.0	NC 169.1	WC 159.9	GN 155.6	NW 128.5	FS 124.9	MPL 109.6	EC 103.2	KZN 99.6	NP 73.4
Assault GBH	595.6	NC 1614.2	WC 806.0	GN 690.4	FS 653.9	NW 638.6	EC 625.2	MPL 618.2	NP 426.6	KZN 350.4
Common Assault	515.4	WC 1072.0	NC 1037.8	FS 809.5	GN 588.5	NW 448.5	EC 428.5	MPL 344.3	KZN 322.5	NP 306.6

Abbreviations of Provinces: GN = Gauteng, KZN = Kwa-Zulu Natal, EC = Eastern Cape, WC = Western Cape, NC = Northern Cape, FS = Free State, MPL = Mpumalanga, NP = Northern Province and NW = North West

(Source: SAPS CIAC Semester Report 1/2000)

2.1.1 The Provincial Breakdown

An analysis of murder dockets by the CIAC office in the Eastern Cape during 1996, indicates that only 4 percent of the murder cases could be attributed to factional conflicts, 3 percent to taxi related violence and 1 percent to gang related violence. The remaining 92 percent of murder cases were predominantly associated with drug and alcohol abuse. Only 34 percent of all murders under consideration were perpetrated with firearms.³⁰

Data from the Northern Cape demonstrate similar findings. Alcohol and family disputes seemed to characterise these cases. Most murders occurred on Saturdays, especially Saturday evenings. Of all murder victims, 68 percent were stabbed, 52 percent with a knife and the remainder with another object. In the vast majority of cases, no premeditation was evident.³¹

Docket analysis done in the Free State indicates the same tendencies. Most murders were committed with knives or other objects and firearms were used in a minority of cases. The most common motive for the murders was personal or inter-personal problems such as marital problems, jealousy and self-defence. In the majority of cases either the perpetrator or the victim, or both, were under the influence of alcohol when the act occurred. Many murders also occurred in or in the vicinity of drinking places.³²

The CIAC office in Mpumalanga confirms the patterns observed in other provinces: 59.1 percent, of the murder cases analysed at the beginning of 1997, occurred in shebeens and other drinking places. In an additional 20.1 percent of the cases the evidence proved inconclusive but it appeared that the victims were murdered on their way to or from drinking places. Evidence suggests that only 15.7 percent of cases may have involved premeditation.

³⁰ SAPS CIAC, "A Selection of Research Results Received from Provincial Crime Information Management Centre Offices" in *Monthly Report 2/97* (http://www.saps.co.za/8_crimeinfo/297/research.htm) (13/08/2000).

³¹ Id.

³² Id.

Data from the Western Cape in 1999 indicate similar tendencies. Most murders took place on Saturday evenings. More than half the murders were stabbings with a knife or other sharp object. Only one quarter were firearm-related homicides.³³

The information gathered from the provinces discussed above indicates that the dominant feature of murder in these provinces is alcohol abuse and intoxication coupled with interpersonal disputes. This is partly a consequence of the historic "tot system" whereby farm workers were compensated (or at partly compensated) with wine. Despite the termination of the system, the alcoholic tendencies that it engendered remain. Geographic crime pattern analysis reveals that those areas in which the "tot system" once prevailed, have consistently experienced the highest ratios of assault, rape and murder.³⁴

It appears that most cases of murder occur over the weekends and especially in the festive seasons, often in and around drinking holes. Most perpetrators and victims are known to each other and more often victims are stabbed rather than shot. It can be reasonably concluded that in the provinces discussed above, murder is predominantly the result of intimate or acquaintance violence. In the most typical scenario inferred from available evidence, an argument occurs and leads to a common assault. This escalates as one or more party is under the influence of alcohol and, therefore, less rational, less inhibited etc. At least one party lays their hands on the first available weapon (most often a knife or broken bottle) and the end result is homicide.³⁵

The breakdown of typical characteristics surrounding murder and attempted murder in Kwa-Zulu Natal and Gauteng may differ in significant aspects from the remainder of South Africa. It is possible that the proportion of stranger and organised violence is higher in these provinces. However, at this point the breakdown of murder statistics into intimate, acquaintance, organised and stranger violence etc. is not known. Generally, the inhabitants of

³³ Western Cape SAPS CIAC, *Semester Report 2/99* (December 1999), 5.

³⁴ SAPS CIAC, "Generators of Crime."

³⁵ *Id.*

the North- Eastern part of the country seem to be less inclined to endemic excessive alcohol consumption and concurrent interpersonal fights.³⁶

Of all the provinces in South Africa, it is only in Kwa-Zulu Natal and Gauteng that firearm murders exceed murder by means of other weapons. Firearm murders in these two provinces together account for about 65 percent of all firearm-related murders and 49 percent of the total murders in South Africa.³⁷

Attempted murder in general appears to be less strongly associated with alcohol abuse than murder. Attempted murder is predictably high in areas experiencing factional/political/ideological conflicts such as the Natal Midlands, Umzimkulu and Durban as well as areas where gang warfare and gang- PAGAD conflicts occur, such as the Cape Town Metropolitan area. Attempted murder is also high in Gauteng especially in Johannesburg, Soweto and the East Rand, where armed robbery (most commonly hijackings and robbery at residential premises) is at its highest level.³⁸

Kwa-Zulu Natal and Gauteng are the main financial centres of South Africa, are more densely populated and have high unemployment and crime rates.³⁹ As a result these two provinces also have a disproportionate share of aggravated robbery and the violence that accompanies it.⁴⁰ However, contrary to popular perception and despite the fact that the vast majority of robbers are armed, police reports indicate hijacking of trucks and cars, bank robberies and cash-in-transit heists result in less than one percent of all homicides in South Africa.⁴¹ It is unknown how many other cases of serious robbery result in the death of the victim.

³⁶ SAPS CIAC, "Generators of Crime."

³⁷ Chetty, "Firearm Crime in South Africa," 22-23.

³⁸ SAPS CIAC, "Crime Situation."

³⁹ Etienne Hennop, "Illegal Firearms in Circulation in South Africa," in *Society Under Siege*, ed. Virginia Gamba, 29.

⁴⁰ *Ibid.*, 30.

⁴¹ SAPS CIAC, "Generators of Crime."

TABLE 3. NUMBER OF MURDERS COMMITTED WITH FIREARMS 1994-1998

	1994	1995	1996	1997	1998
Murder Total	26 832	26637	25782	24588	24875
Murder with firearm	11134	11056	11394	11224	12298
Murder Firearm murders as % of total	41.5%	41.5%	44.2%	45.6%	49.4%

(Source: SAPS CIAC in Chetty, "Firearm Crime in South Africa," 20)

TABLE 4. NUMBER OF ATTEMPTED MURDERS COMMITTED WITH FIREARMS 1994-1998

	1994	1995	1996	1997	1998
Attempted Murder Total	27300	26512	28516	28148	29418
Attempted Murder with firearm	23682	22035	22383	20933	21967
Attempted Murder with firearm as % of total	86.7%	83.1%	78.5%	74.4%	74.7%

(Source: SAPS CIAC in Chetty, "Firearm Crime in South Africa," 26)

TABLE 5. NUMBER OF FIREARM MURDERS BY PROVINCE IN 1998

PROVINCE	FIREARM MURDERS	NON- FIREARM MURDERS	TOTAL MURDERS	FIREARM MURDERS AS % OF TOTAL MURDERS PER PROVINCE	PROVINCIAL FIREARMS MURDERS AS % OF TOTAL FIREARM MURDERS IN RSA
Gauteng	4121	1757	5881	70 %	33.5%
KZN	3815	2703	6518	59 %	31%
Mpumalanga	575	636	1211	47 %	4.7%
North West	552	802	1354	41 %	4.5%
E.Cape	1402	2318	3720	38 %	11.4%
N.Province	360	580	940	38 %	2.9%
Free State	354	820	1174	30 %	2.9%
W.Cape	1056	2501	3557	30 %	8.6%
N.Cape	63	549	612	10 %	0.5%
TOTAL RSA	12 298	12 666	24 964		49 %

(Source: Compiled from SAPS CIAC data cited in Chetty, "Firearm Crime in South Africa," 23-25)

On the basis of the available, yet somewhat limited evidence, it is asserted that the majority of murders in South Africa are the result of intimate and acquaintance violence,⁴² very often characterised by intoxication and interpersonal disputes. Organised violence and stranger violence may form a higher proportion of the murder and attempted murder rate in Kwa-Zulu Natal and Gauteng than in other provinces, but it is doubtful that for South Africa as a whole the proportion exceeds 15 percent.⁴³ This can only be postulated, and not proven conclusively because official murder and attempted murder statistics are not routinely analysed on the basis of the victim-perpetrator relationship and the degree of organised intent. As a result, official figures for murder and attempted murder broken down into gang-related incidents, factional conflicts, homicidal robbery and interpersonal violence etc., are not easily available.

2.2 Rape

According to the CIAC, the incidence of rape stabilised during the period 1994 to 1999 at 119 reported rapes per 100 000 of the population in 1999. In 1998 the CIAC reported a national ratio of 234.6 rape cases per 100 000 females.⁴⁴ The SAPS themselves estimate that only one in thirty-five rapes is reported. If this is the case, then the incidence of rape would stand at 8211 per 100 000 of the female population or 4165 incidents of rape per 100 000 of the total population.⁴⁵ Various victim surveys indicate that underreporting for sexual offences could range from 55 percent to 66 percent.⁴⁶ Based on this, a very conservative estimate would put the actual incidence of rape at about 250 cases per 100 000 of the total population or 450 to 500 per 100 000 of the female population. It is highly likely that real number of rapes in South Africa, exceeds these estimates, which, in any event is inordinately and unacceptably high.

⁴² It should be noted that "acquaintance" does not denote someone with whom the victim was necessarily on friendly terms. This term could be used to describe an opposing gang member, a prostitute, shopkeeper, taxi-driver's client etc. as well as a drinking buddy or social acquaintance. Given the extremely broad definition of the term it could be used to describe almost anyone that the victim ever had any kind of contact with. Hammond, "UCA Submission on Bill."

⁴³ Wesson, "Murder and Private Firearms."

⁴⁴ SAPS CIAC, "Rape Analysis."

⁴⁵ Bollen et al., Introduction to *Violence Against Women in Metropolitan South Africa: A Study on Impact and Service Delivery*, ISS Monograph no. 41 (1999). (<http://www.iss.co.za/Pubs/MONOGRAPHS/41/Introduction/html>) (03/08/2000)

⁴⁶ Hirschowitz et al., *Victims of Crime* 58; Camerer et al., *Crime in Cape Town* and Antoinette Louw et al., *Crime in Johannesburg*.

Victim surveys indicate that 46 percent of perpetrators of sexual offences were armed.⁴⁷ Of those armed, almost 80 percent were armed with a knife and about 15 percent with a firearm.⁴⁸ This would mean that overall about 8 percent of sexual offences are committed by a perpetrator armed with a gun. Conversely, 92 percent of rapes in South Africa are committed without the perpetrator being armed with a gun. This confirms Kleck's finding⁴⁹ that generally perpetrators of rape are not armed with a firearm.

The fact that about half of all rapes are committed without the perpetrator's use of any weapon at all testifies to the fact that in many cases inherent superior physical strength alone is sufficient to ensure successful execution of this crime. Of those perpetrators who were armed, the vast majority were armed with a knife. It is submitted that the very nature of this crime makes utilisation of a firearm less than efficacious. The use of a firearm may be more apt where there are multiple perpetrators such as in the case of gang rape. Whilst this cannot be proven, it is submitted that in those small number of cases where a firearm was utilised, another weapon would have been substituted should a firearm have been unavailable.

Research results based on rape cases in 1996 from the Western and Northern Cape and the Free State indicate that rape also exhibits the cyclical nature of other interpersonal violent crimes and peaks nationally over weekends, especially long weekends, and the holidays around Christmas and Easter. About a third of the suspects were under the influence of alcohol at the time of the rape. According to the police about 60 percent of the suspects were known to their victims, which implies a high degree of acquaintance rape.⁵⁰

⁴⁷ Hirschowitz et al., *Victims of Crime*, 50.

⁴⁸ Ibid., 51.

⁴⁹ Gary Kleck, "Policy Lessons from Recent Gun Control Research," in *Law and Contemporary Problems*, 49 (1986) in Hansson, "Guns and Control," 18.

⁵⁰ SAPS CIAC, "Selection of Research Results."

According to the CIAC some of the most important aspects of South Africa's high incidence of rape are the excessive consumption of alcohol and drug abuse, societal tolerance of violence towards women, HIV/AIDS myths that intercourse with a virgin can cure the infected and the initiation rites of gangs.⁵¹

Given the complex societal factors contributing to the high incidence of rape in South Africa and the very low rate of firearm utilisation in the perpetration of rape, the available evidence suggests that firearm availability is not a decisive factor in determining the incidence of rape in South Africa. Thus it can reasonably be assumed that firearm control is unlikely to significantly decrease the incidence of rape in South Africa. However, given that a firearm in the hands of the would-be victim *can* potentially be used to deter a rape, it is contended by Lott and Mustard⁵² as well as Kleck and Gertz⁵³ that firearm control may in fact increase the incidence of violent crime including rape. The argument for defensive gun use will be examined in some detail at a later stage.

Consequently, in further analysis of the Firearms Control Bill's potential to decrease violent crime in South Africa, rape will be excluded.

2.3 Aggravated Robbery

Aggravated robbery encompasses a fairly diverse group of crimes including all acts of robbery accompanied by high levels of violence or the threat thereof. Cash-in-transit heists and bank robberies make up a very small proportion of all aggravated robberies.⁵⁴ Hijacking of trucks and cars are much more common and comprise about one fifth of all cases of serious robbery.⁵⁵ Robbery with aggravating circumstances is rapidly on the increase and rose more than four times its expected population growth linked increase, in the period 1994 to 1999.⁵⁶

⁵¹ SAPS CIAC, "Rape Analysis."

⁵² Lott and Mustard, "Crime and Deterrence."

⁵³ Kleck and Gertz, "Armed Resistance to Crime."

⁵⁴ Shaw, "Violent crime in South Africa," 16-17.

⁵⁵ Robert Chetty, "Summary," in *Firearm Use and Distribution*, 10.

⁵⁶ SAPS CIAC, "Crime Situation."

TABLE 6. NUMBER OF SERIOUS ROBBERIES WITH A FIREARM 1994-1998

	1994	1995	1996	1997	1998
Total Serious Robbery	84900	80071	67249	69691	88319
Robbery with Firearm	No Data	No Data	51004	54230	74854
Robbery with firearms as % of all serious robberies	No Data	No Data	75.8%	77.8%	84.8%
ATTEMPTED ROBBERY WITH FIREARM	No Data	No Data	2014	4237	4703

(Sources: SAPS CIAC cited in Chetty, "Firearm Crime in South Africa," 27 and SAPS cited in Hennop, "Illegal Firearms in Circulation," 20)

TABLE 7. NUMBER OF SERIOUS ROBBERIES WITH A FIREARM BY PROVINCE IN 1998

Province	Firearm robberies	Firearm robberies per province as % of total firearm robberies in RSA
Gauteng	37770	50.5%
KZN	16935	22.6%
W.Cape	5014	6.6%
E.Cape	4856	6.5%
Mpumalanga	3277	4.4%
North West	3077	4.1%
N.Province	2158	2.9%
Free State	1615	2.2%
N.Cape	152	0.2%
Total RSA	74854	100%

(Source: SAPS CIAC in Chetty, "Firearm Crime in South Africa," 27)

Property related crimes are generally perpetrated by strangers to the victim and typically involve the use of a weapon. Whilst street robbery may frequently be perpetrated with a knife, the firearm is the weapon of choice in most other types of aggravated robbery. Firearms were used in 85 percent of all serious robberies in 1998.⁵⁷ This is presumably because firearms tend to be very intimidating and are more likely to ensure the victim's compliance. They also provide maximum protection against armed victims.

Hijacking of trucks, carjacking, cash-in transit heists and bank robberies are most often perpetrated by crime syndicates operating mainly in the large metropolises. Contrary to popular perception, despite the fact that over 90 percent of hijackers are armed, less than 1 percent of hijackings result in a fatal shooting. It appears that hijackings result in about sixty murders of the total \pm 25 000 murders committed per year (that is only 0.2 percent of the total number of murders). Bank robberies and cash-in-transit heists result in the death of \pm 100 people (quite possibly some fatalities are those of the perpetrators), which represents 0.4 percent of all murders.⁵⁸

Armed robbery has spread to all corners of the country but remains concentrated in Gauteng and Kwa-Zulu Natal. These two provinces account for 73.1 percent of all firearm robberies that occurred in 1998.⁵⁹ As previously mentioned this could be because these provinces are the main financial centres, more densely populated and have high unemployment and crime rates.⁶⁰ Their geographical proximity to the borders of South Africa would also facilitate the movement of stolen goods and contraband out of the country.

⁵⁷ Chetty, "Firearm Crime in South Africa," 27.

⁵⁸ SAPS CIAC, "Generators of Crime."

⁵⁹ Hennop, "Illegal Firearms in Circulation," 30.

⁶⁰ *Ibid.*, 29.

3. CONCLUDING COMMENTS

The preceding analysis of violent crime in South Africa suggests that the vast majority of murders, assaults and rapes, as well as some attempted murders, can be classified as intimate and acquaintance violence. Organised violence and stranger violence may form a higher proportion of the murder and attempted murder in Kwa-Zulu Natal and Gauteng than in other provinces, but for South Africa as a whole the proportion probably does not exceed 15 percent.⁶¹ The vast majority of armed robberies can be classified as stranger violence.

The seasonal nature of most “violent crimes against the person” is very telling. There is a definite peak around the Christmas holidays in December and January and also on long weekends, especially the Easter weekend. These violent incidents tend to be characterised by excessive alcohol consumption and inter-personal disputes. This suggests that interventions aimed at preventing these crimes would need to address the excessive abuse of alcohol and the culture of violence in South Africa, if they are to be at all effective.

In South Africa, those violent crimes most commonly committed with firearms are armed robberies, murders and attempted murder. Thus, for the purposes of analysing firearm policy interventions, a focus these particular crimes can be justified.

⁶¹ Wesson, “Murder and Private Firearms.”

CHAPTER 4 THE POLICY RESPONSE

1. THE NATIONAL CRIME PREVENTION STRATEGY

The National Crime Prevention Strategy (NCPS) released in May 1996, provides the context to the South African government's adoption of a policy of restrictive gun control. It is this document that designated the "number and easy accessibility of firearms (a)s a major contributor to violent crime."¹

The NCPS was an attempt by the government to provide an overarching framework for the co-ordination of the various departments involved in crime prevention, as well as to rally the population around a common societal vision. In an innovative and progressive approach it sought to draw in the departments of Welfare, Health and Education as well as those departments traditionally involved in crime prevention such as Safety and Security, Correctional Services, Justice and Defence. The NCPS describes a multi-faceted approach to crime prevention consisting of 1) re-engineering the criminal justice process, 2) reshaping community values and education, 3) environmental design and 4) combating transnational crime.²

The major policy shift outlined in the NCPS document is one of a move away from purely reactive crime control to a more proactive stance that aims at crime prevention. This involves a shift away from traditional strategies of increased policing and stricter sentencing that aim to deter an individual with pre-existing criminal intent. Rather, the focus is on an "investment in those spheres which may prevent ...people from becoming criminals."³

Whilst preventing the formation of criminal intent is obviously a far superior aim than merely punishing offenders, it requires a magnificent feat of social engineering in which "we need to

¹ Inter-departmental Strategy Team, *NCPS*, 22.

² *Ibid.*, 51.

³ *Ibid.*, 5-6.

weave a new social fabric” through “reshaping community values and education.”⁴ Although, as the old adage states “prevention is better than cure”, this is inherently a more long-term process (if it is actually possible at all), a fact that the NCPS readily admits.⁵

In the short term, the means with which criminal acts are perpetrated, are targeted. Firearms are identified as facilitating the perpetration of crime and thus the availability of firearms as increasing the risk of victimisation.⁶ As the framers of the NCPS put it “there is little doubt that the large number and easy accessibility of firearms contributes to the high levels of criminal violence in South Africa...A key issue is the ease with which potential criminals can acquire firearms. The availability of firearms is reflected in the number of licensed guns, as well as in estimates of the numbers of illegal weapons in circulation in South Africa.”⁷

One of the presuppositions underlying these statements is the belief that legal firearms constitute a ready source of arms for the criminal population and decreasing the number of licensed civilian arms would limit the availability of firearms to criminals. Another is that licensed civilian arms are positively associated with high levels of violent crime.

Civilian firearm ownership is seen as intrinsically negative. Unfortunately, no cognisance is taken of the fact that firearms can also be used effectively to prevent the perpetration of crime. As the drafters of the NCPS see it “the fact that a large portion of the citizenry is armed, serves to escalate the levels of violence associated with crime” and “the proliferation of privately owned firearms ...reinforce(s) a culture of violence.”⁸

The merits and demerits of these specific beliefs undergirding the crime prevention strategy’s approach to firearm-related crime, will be examined in some detail in chapters 6 to 8.

⁴ Id.

⁵ Id.

⁶ Ibid., 13.

⁷ Ibid., 22.

⁸ Ibid., 22.

Nonetheless, with this logic informing the policy response to violent crime, it is unsurprising that legislators believe that decreasing the number of firearms in civilian hands is likely to diminish levels of violence in South Africa. It is this conviction that gave rise to the Firearms Control Bill in a move to replace existing legislation with a more restrictive firearm policy.

2. LEGISLATION REGULATING FIREARMS IN SOUTH AFRICA

Many politicians, security personnel and advocates of gun control, deem the existing legislation, the *Arms and Ammunition Act no. 75 of 1969*, to be insufficient and deficient in regulating the use of firearms in South Africa.⁹ This is despite the fact that ardent Gun Free South Africa lobbyist, Adele Kirsten, herself admitted that existing legislation “is regarded as one of the strictest firearms legislation in the world.” She continued that “the law is hardly followed and is proving woefully inadequate in regulating private firearms ownership.”¹⁰

If the law is “hardly followed” then the fault could possibly lie with enforcement of the law and not the legislation per se. This is certainly the line that the anti-gun control lobby takes in arguing that the existing legislation would, in fact, be adequate if it was properly enforced.¹¹

Despite this assertion, the new Firearms Control Bill was drafted and published in December 1999. After a process of public consultation, a revised version of the Bill was tabled in parliament in May 2000. At the time of writing, the Bill awaits the signature of the President before it is enacted. Until then the *Arms and Ammunition Act* remains in force.

There are several provisions of the present Act relating to firearms legally owned by private individuals (other than gun dealers, gun smiths etc.) which have come under scrutiny in recent years. Some of the most pertinent provisions are outlined in the following section.

⁹ Dirk Besdziek, “Into the Breech: Reversing the Proliferation of Firearms in South Africa,” in *African Security Review* vol. 5 no. 6 (1996), 22.

¹⁰ Adele Kirsten, “Stopping Gun Violence in South Africa,” in *Africa News* July 1997 (http://www.oneworld.org/news/reports/jun97_southafrica.html) (04/11/1999).

¹¹ B. Nixon (June 1996) cited in Besdziek, “Into the Breech,” 22.

2.1 The Arms and Ammunition Act no. 75 of 1969

The *Arms and Ammunition Act* allows for anyone over the age of sixteen, and not otherwise disqualified, to hold a firearm licence. Children under the age of sixteen may use a firearm if supervised by someone over the age of twenty-one who is in lawful possession of a firearm.¹²

At present there is no limitation on the number of firearms an individual can own. Firearm licences do not have to be renewed and remain valid, “until the possession of the arm is permanently transferred by the holder thereof to any other person” or until the holder of the licence is declared unfit.¹³

Section 12 of the Act stipulates that individuals will be declared unfit to possess a firearm if they have been convicted of unlawful possession of a firearm and if they have been convicted of any offence in which a firearm was used. However, this declaration of unfitness may be circumvented by payment of an admission of guilt fine, which would then allow the individual to lawfully possess a firearm licence.¹⁴

The Act requires that firearms be stored in safe and secure facilities. Negligent loss or theft of a firearm constitutes a punishable offence. Anyone found guilty of such an offence may be found unfit to possess a firearm.¹⁵ The Act also requires lost, stolen or destroyed firearms to be reported within twenty-four hours of their loss being apparent.¹⁶

Section 38 allows licensed firearm owners to carry the firearm on their person as long as it is completely concealed and always under their immediate control.¹⁷

¹² McKenzie, “Domestic Gun Control Policy,” 12.

¹³ *Ibid.*, 20.

¹⁴ *Id.*

¹⁵ Besdziek, “Into the Breech,” 27.

¹⁶ *Ibid.*, 21.

¹⁷ *Ibid.*, 28.

Section 39 delineates the penalties for illegal possession of firearms with a maximum sentence of ten years imprisonment for illegal possession of commercial arms and twenty-five years for arms of a military nature.¹⁸ The minimum sentence is five years. Possession of a firearm without a licence makes one liable for a fine of R12 000 and/or a maximum of three years in prison for a first offence or five years for a subsequent conviction.¹⁹

One of the most severely criticised clauses of the Act, Section 8 (1), allows licensed firearm owners to lend their firearms to others. This obvious loophole made it possible for those who would ordinarily not qualify for a licence to be in legal possession of a firearm. Alternatively, a buyer could take possession of the firearm before his/her firearm licence had been approved.²⁰ An amendment passed by Parliament prior to the 1999 elections stipulates that licence holders can only lend their guns to other licence holders. The person borrowing the gun may only use the gun on land, which belongs to or is occupied by the person who holds the licence for the gun in question.²¹

Of paramount importance is the question of which party carries the burden of proof and the issue of justification for possessing a firearm. Under current regulations, in general, all citizens essentially have a "right" to possess a firearm and the onus is effectively upon the state to prove that any particular person is unfit to possess a firearm. General self-defence is the most common reason given for gun ownership and constitutes a suitable justification for obtaining a licence to possess a firearm.²²

¹⁸ Ibid., 24.

¹⁹ McKenzie, "Domestic Gun Control Policy," 12.

²⁰ Besdzick, "Into the Breech," 22-23.

²¹ McKenzie, "Domestic Gun Control Policy," 12.

²² Besdzick, "Into the Breech," 26.

2.2 The Firearms Control Bill B34-2000

The Preamble to the Firearms Control Bill ²³ sets out the rights held by the people of South Africa that this Bill intends to uphold.

It states that “every person has the right to life and security of person, which includes among other things, the right to be free from all forms of violence.” It also asserts that the “increased availability and abuse of firearms ... has contributed significantly to the high levels of violence in our society” and that the “Constitution places a duty on the state to respect, promote and fulfil the Bill of Rights.”

Chapter 2 Section 3 of the Bill places a general prohibition on the possession of a firearm without a licence, permit or authorisation issued in terms of this Bill once enacted. All licences issued under the previous Act remain valid for a period of five years from the date of commencement of the Act. The Bill is retroactive in that persons issued with licences under the previous Act may be declared unfit under the new act.

Section 4.3 (a) of Chapter 2 grants the Minister the right to declare any firearm of a specific type illegal if it is in the interest of public safety or “desirable for the maintenance of law and order.” This clause is concerning, as the Minister could utilise this provision to disarm the population systematically, by decree. Whilst this is undoubtedly not the intent of current legislators, the less democratically inclined could exploit this provision at some point in the future.

Chapter 4 Section 8 stipulates that licences and permits must be applied for through the Registrar and can only be granted to those holding a prescribed competency certificate. Chapter 5 Section 11 sets out the qualifications for the competency certificate.

²³ All the information presented in this section is taken directly from *The Firearms Control Bill B34-2000 (Revised Version)* as published in the government Gazette No. 21193 of 19 May 2000.

A certificate may only be issued to a person over the age of eighteen years who is a South African citizen or permanent resident. They must be “a fit and proper person to possess a firearm” and will be disqualified if they are mentally unstable “inclined to violence”, dependent on narcotics or other intoxicating substances or have been convicted of a firearm offence or other offence specified in the Act. Competency certificates expire two years after their date of issue.

Chapter 6 Sections 13 and 14 of the Bill relate to the licence to possess a firearm. A separate licence is required for each firearm. More than one person residing on the same premises may hold a licence for a particular firearm.

Section 30 stipulates that a licence issued for the purpose of self- defence is valid for 5 years unless the gun is a restricted firearm. In that case, the licence is valid for two years. A person may hold one licence for a non-automatic shotgun and one for a non-automatic handgun. A person may hold one licence for a semi-automatic or other restricted firearm, provided that he or she can show that a “normal” shotgun or handgun would be an insufficient means of self-defence. In order to qualify for a self-defence firearm licence, one must demonstrate that one needs the firearm for self-defence and that there is no other reasonable recourse.

Whilst a system of renewable licensing does make it easier for the state to keep track of licensed firearms, it also provides a platform for the state to deny the licence renewal. The burden of proof is shifted onto the licence holder to prove that he/she still requires the firearm for self-defence and that he/she has complied with all the prescribed regulations (Section 27). It also appears that general self-defence may no longer constitute suitable justification for obtaining a firearm licence. The potential licence holder may be required to prove that he or she are in immediate danger arising from a specific threat to their person that cannot be averted except by means of legal firearm ownership. Thus an individual could be denied a licence to protect himself or herself from a general threat, such as rampant crime and violence, or a specific threat that has not yet arisen.

Section 25 closes a gap in the previous legislation that allowed a licence holder to lend a firearm to another person. Here a person over the age of twenty-one may allow another person to use the firearm under their immediate supervision for the purpose of hunting, practice on a range or sporting purposes. Section 32 requires that lost or stolen firearms be reported to the Registrar within twenty-four hours.

Chapter 9 is concerned with the carrying of firearms. It states in Section 87 that a firearm may only be carried in public places in the gun's case, in a holster attached to the person, or in a rucksack or similar holder. The gun must be completely covered and the holder must be able to exercise effective control over the weapon.

Chapter 11 exempts Police, Correctional Services personnel, members of the SANDF and other official institutions' personnel from the provisions of this Act other than sections 112 and 150. Employees of official institutions still need to obtain a permit to possess a firearm controlled by the institution. Members of the SANDF do not require permits to carry military weapons when performing official duties.

Chapter 12 Sections 105, 106 and schedule 2 specifies those conditions under which a person may be declared unfit to possess a firearm.

Persons who may be declared unfit:

- Those having had a final protection order issued against them in terms of the Domestic Violence Act.
- People who have expressed the intent to injure or kill themselves or others with a firearm.
- On grounds of mental instability, inclination to violence or dependence on narcotics or other intoxicating substance.
- Individuals who have provided false information required in terms of the Act.
- People who have failed to take the prescribed steps for the safekeeping of a firearm.
- Persons who have been convicted in court of :
 - Unlawful possession of a firearm or ammunition,
 - A firearms related offence,

- Any offence involving dishonesty or violence, for which the accused was sentenced to imprisonment for a period of not less than twelve months without the option of a fine,
- High Treason, Sedition, Sabotage, Terrorism, Public Violence, Arson, Intimidation, Rape, an offence involving the dealing of drugs or the abuse of drugs or alcohol, or offence in terms of the explosive act, kidnapping, child stealing, culpable homicide, extortion, conspiracy, incitement, or attempt to commit any of the above offences.

Should a court declare a person unfit to possess a firearm, that person must surrender all firearms, licences and certificates within twenty-four hours. The person has the right of appeal. The declaration of unfitness to possess a firearm is valid for five years.

Chapter 16 Section 123 details punishable offences in terms of the proposed act. It is an offence to cause injury to a person or property through the negligent use of a firearm. It is an offence to handle a gun while under the influence of a narcotic or intoxicating substance. A person may also not give control of a firearm to a person they know to be mentally ill or intoxicated. It is an offence to “wilfully point a firearm at any person” or discharge a firearm in a public place. Firearms must be locked in a safe or strong room when not under the owners direct control or on his or her person. It is an offence to lose the weapon through negligence. One may not use the firearm to commit an offence or prevent the arrest of oneself or another.

Chapter 20 Section 143 makes provision for gun free zones.

3. CONCLUDING COMMENTS

Thus, it can be seen that the Firearms Control Bill differs in significant ways from current legislation regulating legal firearm ownership in South Africa. Of particular importance is a shift in the burden of proof and the (implicit) lack of recognition of general self-defence as a justification for legal firearm possession. Despite the fact that civilian gun ownership is not explicitly prohibited by the Bill, the Bill definitely removes the “right” of firearm ownership from the population. The state is given the power to grant or deny the “privilege” of firearm ownership at its discretion.

CHAPTER 5 THE SUBSTITUTION EFFECT AND DIFFERENTIAL LETHALITY

The case for strict firearm control measures hinges on the assertion that decreasing the general availability of firearms (and thus supposedly decreasing the availability of guns to criminals or potential criminals) will decrease the incidence of violent crime. As Zimring and Hawkins assert "fewer guns would mean fewer deaths."¹

It is clearly apparent that if there were absolutely no guns in society at all, then no crimes could be perpetrated with them. However, an extensive range of other types of weaponry would remain. The aim is not merely to diminish firearm-related crime, but to reduce the incidence of violent crime as a whole.

Thus, apart from the obvious question of whether firearm legislation can actually decrease the availability of firearms to criminals, the issue remains whether those who commit murders and robberies with firearms would merely substitute another weapon should the availability of firearms decrease. This is termed the substitution effect.

If it can be demonstrated that those that previously killed and robbed with a firearm would have refrained from these activities if access to a firearm had been denied,² then strict gun control would be an effective policy response. However, if offenders substituted other weapons in the place of firearms, one would need to consider the impact of this substitution on injuries and fatalities. The answer to this question depends largely on the matter of criminal motivation and the differential lethality of weapons.³

¹ F. Zimring and G. Hawkins, *The Citizen's Guide to Gun Control*, 1987 cited in Hansson, "Guns and Control," 7.

² It is thought possible that possession of a firearm gives the criminal courage to do what he might not otherwise do. Wright, Rossi and Daley, *Under the Gun*, 130.

³ *Ibid.*, 189-190.

Those adequately resolute to kill another have a number of means by which to do it. Victims can be shot, stabbed, strangled, beaten, burnt, poisoned, thrown off a train, etc. etc. Robbers could threaten victims, individual and corporate, with physical force, knives, sticks, pipes, bombs etc. While utilising a firearm may be most efficient and convenient, it is reasonable to assume that a sufficiently determined predator will not be deterred by the absence of a firearm or by any kind of firearm legislation.⁴

However, it is also true that some homicides are not the result of an earnest premeditated attack. For example, one drunken motorist enrages another, a fight ensues and one ends up dead. This will be termed the “escalated dispute” scenario. The fatality is not accidental because at the time of the incident the perpetrator sincerely meant to inflict serious harm or kill the victim. However, a very strong case can be made that the homicide was not premeditated and the intent to kill “ambiguous” and short-lived. In other words the perpetrator did not *really* want the victim to die, but at the time of the incident his/her judgement was impaired owing to intoxication or “enraged passions”.

The outcome of this incident could reasonably be determined by the relative lethality of the weapons on hand. Cook argues that introducing a gun into a violent encounter increases the chance of a fatality occurring.⁵ He contends that many murders possibly arise from unintentional fits of anger that are quickly regretted, and merely removing a firearm from the equation would prevent these deaths.⁶

1. THE SUBSTITUTION EFFECT

In South Africa, the substitution effect has yet to be empirically tested. Given the general availability of firearms, both legal and illegal, what might happen if firearms should be less

⁴ Marvin Wolfgang, *Patterns in Criminal Homicide* (Philadelphia: University of Pennsylvania Press, 1958) cited in Wright, Rossi and Daley, *Under the Gun*, 189-190.

⁵ Editorial, *Cincinnati Enquirer* (January 23 1996) cited in Lott and Mustard, “Crime and Deterrence,” 1.

⁶ Phillip Cook, “The Role of Firearms in Violent Crime,” in *Criminal Violence* eds. M. E. Wolfgang and N. A. Werner (1982) cited in Lott and Mustard, “Crime and Deterrence,” 1.

easily available can only be hypothesised. However, this can possibly be inferred from the evidence relating to the degree of premeditated intent involved in murders. Premeditated criminal intent is usually assumed in the case of armed robbery but premeditated homicidal intent is not. The two types of crime will be separately examined.

Wright and Rossi's study of criminals and their weapon use in the United States, indicated that carrying multiple weapons was commonplace, the most popular combination being a gun and a knife. Many criminals habitually carried arms, not only when intending to commit a felony.⁷ If South Africans exhibit similar tendencies, this would suggest that those currently committing crimes with firearms may already carry knives as a backup. If this is the case then there is no reason to think that other weapons such as knives would not be substituted in the place of firearms, should the later become scarce.

For premeditated murder, the degree of earnest intent suggests that it is most probable that alternative means will be utilised in the absence of a firearm. Whatever the means available, the weapon is more likely that it will be used with deadly effect than in the case of the "escalated dispute", given the lack of premeditation and resolve. Thus firearm control is extremely unlikely to significantly decrease the rate of premeditated murders if these assumptions are valid.

In the case of the "escalated dispute" the assertion that the first available weapon is used, also suggests that a case can be made for the substitution effect. However assuming that the intent to kill is somewhat ambivalent and temporary, the intrinsic lethality of the weapon at hand would be relatively more decisive.

Therefore, if "escalated dispute" murders far outnumber premeditated murders and if firearms are intrinsically more lethal than other weapons that might be substituted in their place, then decreasing the availability of firearms to potential criminals would decrease the rate of criminal homicide.

1.1 Firearm Homicides in South Africa

As previously established, in the “escalated dispute scenario” the intrinsic lethality of the weapon at hand could reasonably determine the outcome of the incident. By ensuring that there are no firearms present in the case of an escalated dispute, conflict supposedly becomes less lethal even if other weapons are substituted in their place.⁸

In Chapter 3 the majority of murders, and many attempted murders, in most provinces other than Gauteng and Kwa-Zulu Natal, were classified as intimate and acquaintance violence with excessive alcohol abuse and interpersonal disputes being the defining features of these incidents. However, most of these murders were perpetrated with knives and other sharp objects rather than firearms.

In Kwa-Zulu Natal and Gauteng, murders and attempted murders seem to be less associated with alcohol abuse and the corresponding interpersonal disputes. Both provinces appear to have a higher ratio of organised violence and violence associated with aggravated robbery. They also have a much higher ratio of firearm-related murders.

Given the exceptionally high degree to which factional conflicts and aggravated robbery involve the use of firearms, it would not be unreasonable to surmise that the frequency of these incidents in Kwa-Zulu Natal and Gauteng could account for the higher ratio of firearm related incidents in these provinces. For the country as a whole, an educated guess would put homicides related to these two crime types at no more than 15 percent of the total number of murders in South Africa.⁹ Taking Mpumalanga as an average (which it possibly is not) the CIAC office estimates that about 15 percent of murders showed evidence of premeditation.¹⁰

⁸ Phillip Cook, “The Influence of Gun Availability on Violent Crime Patterns,” in *Crime and Justice: An Annual Review of Research* eds., M. Tonry and N. Morris (1983) cited in S. Jagwanth and T.S. Thipanyane, “Gun Control in South Africa: a Critical Review” in *South African Journal of Criminal Justice* (6) (1993), 22.

⁹ Wesson, “Murder and Private Firearms.”

¹⁰ SAPS CIAC, “Selected Research Results.”

Therefore, it appears that the vast majority of murders in South Africa fit the “escalated dispute” scenario, but this cannot be known for sure. Except in a small number of cases the degree of premeditated intent cannot be conclusively inferred from the circumstances surrounding any particular incident. This remains conjecture.

However, as previously established, a large number of these murders were perpetrated with a knife. This raises the distinct possibility that the majority of “escalated disputes” in South Africa involve the use of a knife rather than a firearm, and thus firearm control is unlikely to affect the outcome of these incidents. Conversely, it is also possible that most firearm murders in South Africa are as a result of organised and stranger violence, with their supposedly greater degree of premeditation and resolve.

Despite the possibility that “escalated dispute” firearm murders may constitute a minority of murders in South Africa,¹¹ these could possibly be avoided by the removal of a deadly weapon from the situation. In these cases, the potential of firearm control to decrease the rate of homicide would depend on the relative lethality of firearms and knives.

2. DIFFERENTIAL LETHALITY

Many international studies indicate that firearm injuries are more likely to cause the death of the victim than knife injuries. To be very specific, a bullet wound is more likely to kill than a knife wound. This fact is used to assert that firearms are intrinsically more lethal weapons. Estimates vary suggesting that firearm attacks are anywhere between two and five times as more lethal than knife attacks.¹²

However, it does not necessarily follow that a perpetrator wielding a gun is inevitably more likely to kill the victim than a perpetrator wielding a knife. It is only if the perpetrator actually attacks the victim and wounds the victim, that firearms are more likely to cause death.

¹¹ Wesson estimates that “escalated dispute” firearm homicides constitute about 20 percent of total murders.

¹² Wright, Rossi and Daley, *Under the Gun*, 198.

The nature of murder and attempted murder with a weapon necessarily envisages an attack of some sort. However, the likelihood of actual attack is of great importance in relation to robbery and is considered in the next section.

For those provinces in which “escalated dispute” murders appear to be most common (see Chapter 3) approximately one third of murders were perpetrated with a firearm and two thirds with other weapons, most frequently a knife or other sharp object.¹³ While this does not speak directly to the “success rate” of murder attempts with knives and firearms respectively, it does indicate that in cases where murderous intent is supposedly ambiguous and short-lived, knives are frequently used with deadly effect.

In an attempt to establish the relative lethality of firearms and other weapons (most commonly a knife) in the hands of South African offenders, Wesson analyses CIAC statistics for the total numbers of murders and total attempted murders for 1998.

TABLE 8. MURDERS AND ATTEMPTED MURDERS BY WEAPON TYPE IN 1998

INCIDENT TYPE	ATTEMPTED MURDER	MURDER	TOTAL	PROBABILITY OF SUCCESS
Non -Firearm	7 235	12 646	19 881	64%
Firearm	21 967	12 298	34 265	36%
All Types	29 202	24 944	54 146	46%

(Source: Wesson, “Murder and Private Firearms”)

Wesson’s analysis suggests that assailants wielding a firearm are half as likely to successfully kill their victim as those wielding another weapon. 64 percent of attempted murders, when the assailant does not use a firearm (i.e. uses a knife etc), results in a successful murder, while only 36 percent of attempts to murder a victim with a firearm are successful.¹⁴

¹³ Calculated from Chetty, “Firearm Crime in South Africa,” 23.

¹⁴ Wesson, “Murder and Private Firearms.”

This result cannot be taken at face value. Importantly, as mentioned before, all near-fatal attacks with a firearm are recorded as attempted murder, and serious attacks with other weapons are often recorded as assault GBH. This would severely alter the ratios. On the other hand, in 1998, 74 percent of attempted murders were recorded as having been attempted with a firearm. This would indicate 7451 incidents involving other weapons were serious enough to be recorded as attempted murders.¹⁵ This demonstrates that possibly the most serious attacks with other weapons are recorded as attempted murder and not assault GBH. Thus Wesson's analysis may have more validity than originally suspected. However, the peculiarities of police recording practices tend to obscure the relative lethality of weapons as wielded by would-be murderers.

These cursory comments are by no means intended to seriously dispute the issue of the relative lethality of firearms. There is overwhelming international evidence pointing to the lethality of firearms relative to other weapons.¹⁶ These comments serve merely to point out that there are factors other than the intrinsic lethality of weapons (such as marksmanship, intoxication, proximity of perpetrator to victim etc.) that impinge on the outcome of any particular incident.

2.1 Firearm Robbery in South Africa

Firearms appear to be particularly useful in the execution of armed robberies. Guns are easily concealable, are very intimidating to the victim and can be used at a greater distance from the victim. They are also more likely to ensure the victim's compliance.¹⁷ As many lucrative targets are protected by armed personnel, firearms put robbers on a more equal footing with the security forces, making it possible to undertake larger scale crimes and make crimes easier to commit.¹⁸

¹⁵ Calculated from CIAC cited in Chetty, "Firearm Crime in South Africa," 26.

¹⁶ Hansson, "Guns and Control," 6-8.

¹⁷ Secretary of State for Scotland, "Lord Cullen's Inquiry into the Circumstances leading up to and surrounding the Events at Dunblane Primary School on Wednesday 13 March 1996- Evidence Submitted on behalf of the Secretary of State for Scotland and the Home Secretary, 30 April 1996 cited in Besdzick, "Into the Breech," 30.

¹⁸ Wright and Rossi, *Armed and Considered Dangerous*, 3.

In South Africa about 85 percent of serious robberies in 1998 were committed with a firearm.¹⁹ In the case of hijacking of trucks, carjacking, cash-in transit heists and bank robberies, the percentage of perpetrators armed with a firearm may be even higher. Despite the fact that the vast majority of robbers are armed with a firearm, it appears that hijackings, bank robberies and cash-in-transit heists together, result in no more than one hundred and sixty homicides of the total \pm twenty five thousand murders committed annually.²⁰

The fairly low rate of homicides accompanying armed robbery probably reflects the fact that the primary goal of robbery is material gain and violence is employed predominantly as a means to an end rather than constituting an end in itself. The criminals that partook in Wright and Rossi's study maintained that the reason for carrying a weapon was primarily to scare the victim. Most indicated that the weapon had in fact only been used in the manner intended.²¹

However, it also probably reflects, to some extent, the fact that firearms are very intimidating and tend to ensure the compliance of the victim. The choice of an alternative weapon such as a knife could result in greater resistance from the victim and escalation of the confrontation into an attack. As a result, armed robberies committed with a knife may prove more deadly than those perpetrated with a firearm.²²

Guns also enable criminals to hit more lucrative targets like banks and cash-in-transit vehicles. Decreasing the availability of firearms may result in criminals attacking more vulnerable targets such as the elderly. If criminals were deprived of guns they may also compensate for the decrease in efficacy by increasing the rate at which they commit crime.²³ While the use of firearms clearly facilitates the perpetration of aggravated robbery, removing firearms from the hands of criminals will not necessarily decrease the rate of armed robbery. In fact quite the opposite is possible.

¹⁹ SAPS CIAC cited in Chetty, "Firearm Crime in South Africa," 27.

²⁰ SAPS CIAC, "Generators of Crime."

²¹ Wright and Rossi, *Armed and Considered Dangerous*, 92.

²² Wright and Rossi, *Armed and Considered Dangerous*, 3.

²³ *Ibid.*, 4.

3. CONCLUDING COMMENTS

It appears that the majority of murders in South Africa fit the “escalated dispute” scenario. This cannot be proven conclusively, but the available evidence points in this direction. However, a large portion of these are already committed with a knife or other sharp object. For those that are perpetrated with a gun, the fatality could possibly have been avoided by the absence of a firearm from the situation, given the greater intrinsic lethality of firearms. In this way, stringent firearm control measures could decrease the rate of “escalated dispute” homicides in South Africa. For those premeditated homicides, it can reasonably be assumed that determined predators would find an alternative means with which to murder.

Given the specific role that firearms play in armed robberies, it is possible that the incidence of murder and attempted murder related to armed robbery might increase, as well as the incidence of armed robbery itself. Thus, effective firearm control may simultaneously increase and decrease incidents of violent crime.

CHAPTER 6 SOURCES OF ILLICIT FIREARMS

The most basic supposition upon which the case for strict gun control is based is the presumed causal relationship between high rates of civilian gun ownership and criminal violence. If it can be shown that civilian gun ownership is one of the causes (at least an enabling condition if not a root cause) of violent crime, then strict gun control may be a justifiable policy response. Before examining whether a statistical correlation between civilian gun ownership and violent crime can actually be demonstrated, it is important to understand the rationale behind the claim. One important factor is the leakage of legal firearms into illegal circulation.

There are in excess of 4.5 million registered firearms in South Africa. About 3.5 million (78.2 percent) are registered to private individuals, approximately 10 percent to government departments and about 2 percent to security firms and companies.¹ In addition to this, state security forces possess about 5 million firearms.² Estimates of illegal gun ownership vary from 1 to 8 million, but the real figure remains unknown.³

In March 1997, Mr. Mufamadi, the then Minister of Safety and Security, stated in Parliament that less than 0.05 percent of legal/licensed firearm owners are responsible for firearm crime.⁴ (Presumably he was alluding to the number of licensed firearm owners that had been convicted of firearm related offences). Whilst that figure is probably an underestimation given the low rate of detection and conviction of certain crimes in South Africa, the Department of Safety and Security confirmed that relatively few licensed firearm owners use their own weapons to perpetrate offences.⁵ It can, therefore, be assumed that those who are not licensed by the state to possess a firearm present the real threat of firearm-related crime and violence.⁶

¹ Central Firearm Registry cited in Chetty, "Firearm Distribution in South Africa," 32.

² McKenzie, "Domestic Gun Control Policy," 22.

³ Sarah Meek, "Transition and Illegal Weapons in South Africa," in *Society Under Siege*, ed. Virginia Gamba, 11.

⁴ Adrian Louw, "Submission Regarding the New Draft South African Firearms Bill B34-2000." (3 June 2000) (<http://www.pmg.co.za/FirearmsBill/Louw.htm>) (03/08/2000).

⁵ Informal telephonic interview with an official from the Department of Safety and Security, 7 December 2000.

⁶ This is with the notable exception of those felons convicted of serious offences, found by the Joint Investigation Task Team to be in possession of firearm licenses. Minnaar, "A Plague of Guns," 23.

It is logical that those who concern themselves with licensing regulations are unlikely to have premeditated criminal intent. This is based on the assumption that those who habitually engage in criminal activity would pay little attention to licensing requirements. Also, seeing that licensed guns can be traced back to the owners, licensing a weapon that one personally intends to use in a crime, is completely irrational. It is possible that a licensed firearm owner may commit a crime in a fit of rage or passion, but based on Mr. Mufamadi's assertion, that seems to be infrequent. In the small number of cases where legal firearm owners do commit firearm crimes, it is usually a case of domestic abuse.⁷

It would appear then that if there is a correlation between civilian gun ownership and violent crime, it is not because licensed gun owners are committing firearm felonies. While a licensed firearm in the hand of a violent spouse is by no means to be discounted, statistically the greatest threat is posed by felons who commit murders, attempted murders and armed robberies (See chapter 3) with firearms they are not licensed to possess. Therefore, of paramount importance is the question of how weapons are illegally acquired.

The sources of illicit firearms can be classified as internal or external. Internal sources would include privately owned firearms and state owned weapons, while external sources come from across South Africa's borders. The ratio between illegal weapons from internal and external sources is fluid and shifts according to availability and market demand.⁸

Prior to 1994, the main source of illicit arms was external to South Africa and the arms entered the country primarily by means of weapons smuggling.⁹ Internally there was very little leakage of civilian owned firearms into illegal pools.¹⁰ The main internal source of illicit arms was state armouries with an estimated five million security force guns passing into civilian hands during the apartheid years.¹¹

⁷ Informal telephonic interview with an official from the Department of Safety and Security, 7 December 2000.

⁸ Hennop, "Illegal Firearms in Circulation," 17.

⁹ Id.

¹⁰ According to the Commissioner of Police, *The Annual Report*, 1993 in Hansson, "Guns and Control," 69-70.

¹¹ Interdepartmental Strategy Team, *NCPS*, 31.

Some argue that in recent years there has been a shift away from external sources of illicit arms to internal sources, most notably civilian owned firearms.¹² Currently, the leakage of licensed civilian firearms into illegal markets is a very contentious issue and a pivotal point in the gun control debate.

In South Africa between 1994 and 1998, 99 409 firearms were reported stolen and 13 283 lost, including those lost or stolen from the police and defence force. This brings the total number lost and stolen during this period to 112 692. In 1998 alone, there were approximately 35 000 firearms lost and stolen, with 6224 cases of *negligent loss of a firearm* involving 6400 firearms.¹³ Given that there are 4.5 million licensed firearms in South Africa, firearms that are lost or stolen every year amount to approximately 1 percent of all registered firearms.¹⁴

However, in all likelihood these figures are an underestimation of the true number of firearms lost or stolen.¹⁵ Because negligent loss of a firearm is a punishable offence, a number of firearms lost and stolen may remain unreported. However, the fact that a case docket is required for insurance purposes may ameliorate this tendency and encourage insured complainants to report the loss or theft.¹⁶ A percentage of these are recovered by the police.

Care should be taken when comparing figures relating to the loss, theft and robbery of guns. Changes in police classifications may affect these figures relative to one another. Also, in cases where the incident is reported, the complainant may report the firearm as stolen rather than lost to avoid culpability.¹⁷ Despite this reporting tendency possibly skewing the figures, it does appear that robbery of firearms has been increasing steadily from 1996 onwards.¹⁸

¹² Hennop, "Illegal Firearms in Circulation," 17.

¹³ Chetty, "Firearm Distribution in South Africa," 39.

¹⁴ Anthony Albeker, "Are South Africans Responsible Firearm Owners? Evidence from 1000 Dockets" (Unpublished Research Report commissioned by Gun Free South Africa, 2000), 9.

¹⁵ Etienne Hennop, "Illegal Firearms in South Africa: Tracking Sources," in *Nedcor ISS Crime Index* no. 2 1999 (<http://www.iss.co.za/Pubs/Crime%20Index/Vol%203%20No%202/Firearms.html>) (26/07/00).

¹⁶ Hennop, "Illegal Firearms in Circulation," 16.

¹⁷ Robbery of a firearm is distinguished from theft by the perpetrator employing violence or the threat thereof and necessitates a confrontation between victim and perpetrator.

¹⁸ Chetty, "Firearm Distribution in South Africa," 40-41.

TABLE 9. FIREARMS LOST AND STOLEN 1996-1998

YEAR	LOSS (% of TOTAL)	THEFT (% of TOTAL)	ROBBERY (% of TOTAL)	TOTAL
1996	1561 (7.3%)	18543 (88.3%)	891 (4.4 %)	20995
1997	4233 (12.5%)	26171 (77.5%)	3366 (10%)	33770
1998	6400 (18.2%)	23820 (67.5%)	5045 (14.3%)	35265

(Source: Data from Chetty, "Firearm Distribution in South Africa," 40-41)

TABLE 10. ESTIMATES OF ILLEGAL FIREARMS IN CIRCULATION

TOTAL	SUB TOTAL	DESCRIPTION
200 000		Total state owned firearms missing
	18 000	Left behind by the SADF after their withdrawal from SWA
	63 000	Issued to commando and reservist members after completion of national service
	91 000	Sent to other countries as part of special projects
	22 000	Firearms lost or stolen including those lost or stolen from former TBVC states police services
	6 000	Firearms provided to local black councillors, local black professionals and tribal leaders.
150 000		Firearms stolen from private owners
20-30 000		Home-made firearms
Unknown		Number of illegal imports
Unknown		Number of under-reported losses from all sectors
500 000		Total number of illegal firearms

(Source: The Department of Safety and Security cited in Hennop, "Illegal Firearms in Circulation," 15)

1. CIVILIAN OWNED FIREARMS

Unfortunately, there are no reliable composite figures available that distinguish between firearms lost or stolen from individual civilians, gun dealers or collectors, private security officers, the SAPS, the SANDF and government departments. However, it is estimated that 8500 firearms are lost or stolen annually from the SAPS and SANDF combined. Even if this is a conservative estimate, that leaves approximately 25 000 firearms that must have been lost or stolen from civilian sources including the private security industry. The Department of Safety and Security estimates the total number of weapons stolen from civilians currently in the illegal pool to be at 150 000.¹⁹ What proportion of these civilians are private individuals as opposed to private security officers or gun dealers is unknown.

Altbeker maintains that there are only two plausible reasons behind most firearm theft and robberies. Either the firearm is going to be used in the commission of a crime or it is going to be sold to someone else most probably for criminal use. In either case it seems inevitable that a stolen firearm will be used for criminal purposes. Comparing the number of stolen firearms with the number of violent crimes committed with firearms, Altbeker comes to the conclusion that "the loss of legally owned weapons contributes significantly to the number of violent crimes committed in South Africa."²⁰

Therefore, it appears that a significant number of civilian firearms are entering illegal pools. It is most likely that many of these are used in the perpetration of crimes. Thus, reducing the number of firearms in the possession of the law-abiding public would deprive the criminal element of a ready source of weapons. However, there are several sources other than private civilians, from which criminals may obtain their arms.

¹⁹ Hennop, "Illegal Firearms in Circulation," 25.

²⁰ Altbeker, "Are South Africans Responsible Gun Owners?," 7-8.

2. STATE WEAPONS

State controlled weapons include all those carried by the SANDF, the SAPS and government departments that carry arms, both in the current and previous dispensation.²¹

As part of its policy to prevent the spread of communism, the apartheid regime armed factions in Angola and Mozambique with South African weapons.²² The end of the civil war in Mozambique and the periods of cease-fire in Angola meant a decrease in the demand for weapons in these countries. This resulted in a huge release of firearms onto the black market, which flooded back into South Africa. However, the resumption of conflict in Angola and the DRC has again diverted illicit arms to these regions. As a result, obtaining arms from outside South Africa has become more difficult and consequently, criminals are looking more to internal sources.²³

Under the previous regime, the government also supplied arms to the "independent homelands" and their security forces, government officials, traditional leaders and militia. The large majority of these were military weapons, which were distributed without accurate records being kept.²⁴ In 1993, the Goldstone Commission found that the Kwa-Zulu Natal police did not even know the number of weapons in their possession.²⁵ Many of the weapons issued to officials in the former homelands were not returned when the 'states' were incorporated into South Africa.²⁶ Alarming 38 percent of the weapons belonging to the Transkei Defence Force armoury remain unaccounted for.²⁷

²¹ Hennop, "Illegal Firearms: Tracking Sources," 13.

²² Meek, "Transition and Illegal Weapons," 5.

²³ Hennop, "Illegal Firearms in Circulation," 17.

²⁴ Network Of Independent Monitors and Gun Free South Africa, "Weapons Proliferation in South Africa with a Particular Focus on Proliferation of Illegal Small Arms in Kwa-Zulu Natal" (Unpublished Research Project commissioned by Gun Free South Africa: Johannesburg 1998), 22.

²⁵ Minnaar, "A Plague of Guns", 25.

²⁶ Ibid., 24.

²⁷ SAPS, "Firearms in South Africa: An Escalating Problem," Firearms Investigations Unit, 1995 cited in Besdzick, "Into the Breech," 18.

As late as the 1990s, the apartheid regime was still arming Inkatha members in an attempt to undermine the consolidation of the ANC. Inkatha vigilantes were trained as hit squads and incited to instigate violence specifically in Kwa-Zulu Natal and on the Rand.²⁸ An estimated sixty tons of weapons, ammunition and explosives were supplied to Inkatha in 1992 alone. Despite several arms caches being located and destroyed, these constitute only a fraction of the total number of weapons believed to remain hidden.²⁹

The tumultuous period of the transition to democracy and its aftermath, saw considerable leakage of state controlled weapons into the hands of illegal owners. In addition to the discreet and often undetected casual pilfering of state stockpiles, more brazen thefts from state armouries were carried out by well-organised groups including gangs and vigilante groups. Between January and June 1999, 38 assault rifles, 24 shotguns and 32 pistols were stolen from police stations in the Western Cape alone.³⁰

In addition to the assaults on police stations, police and defence force personnel are specifically targeted both on and off duty for their guns. In 1998 alone, the official number of firearms that were either lost or stolen from the police force was reported to be 1775.³¹ The Institute for Security Studies estimates that in the post-apartheid period approximately 8500 weapons are stolen from the police and defence force annually.³² The Department of Safety and Security puts the total number of firearms in illegal circulation that were obtained from state armouries in the past and present, at 200 000.³³

²⁸ TRC Hearings cited in Meek, "Transition and Illegal Weapons," 9.

²⁹ I Powell et al., "Ngcuka Guns for IFP Hardliners," in *Mail and Guardian*, 14-20 May 1999, cited in Meek "Transition and Illegal Weapons," 9.

³⁰ Hennop, "Illegal Firearms in Circulation," 25.

³¹ Hennop, "Illegal Firearms: Tracking Sources."

³² Virginia Gamba and Martinho Chachiua, "Small Arms Proliferation in Southern Africa: An Overview," in ed. Martinho Chachiua, *Arms Management Programme- Operations Rachel 1996-1999* Monograph no. 38 (June 1999) (<http://www.iss.co.za/Pubs/MONOGRAPHS/mg38/1%20Title%20&%20contents.html>).

³³ Hennop, "Illegal Firearms in Circulation," 25.

3. WEAPONS SMUGGLING AND THE ILLEGAL ARMS TRADE

During the period of the liberation struggle, many illegal weapons were smuggled into the country from Mozambique and Angola by freedom fighters such as Umkhonto we Sizwe and illegal migrants. Between 1987 and 1992, MK smuggled in an estimated thirty tons of weapons and ammunition into South Africa.³⁴ Poor border control and lax policing at points of entry, made weapons smuggling relatively easy and firearms became freely available. Particularly during the 1980s there was a large-scale resort to arms as self-defence units in the townships positioned themselves to take on the might of the apartheid state.³⁵

Subsequent to democratisation these units became superfluous and many of those who had found their identity and purpose in the fight against apartheid became ready recruits for criminal syndicates given the scarcity of gainful employment and the lack of meaningful alternative social groupings. These recruits, including previous APLA and MK operatives, retained their weapons, many of which have been used in bank robberies and cash-in-transit heists.³⁶ Many arms caches created by the liberation movements are still unaccounted for and are finding their way into illegal circulation in South Africa.³⁷

Despite the probability that politically motivated weapons smuggling has decreased since the end of the liberation struggle, organised syndicates continue to ply their trade. Subsequent to democratisation, these smuggling routes were increasingly utilised by criminal elements to obtain arms.³⁸ Weapons currently smuggled into South Africa include those previously distributed by the apartheid state in the region as well as weapons smuggled in through air and sea ports from the U.S., China and Eastern Europe.³⁹

³⁴ S. Brummer, "Mk's Secret Weapon: A Bundu Bashing Safari," in *Electronic Mail and Guardian*, 19 June 1997, cited in Meek, "Transition and Illegal Weapons," 8.

³⁵ Minnaar, "A Plague of Guns," 24.

³⁶ Id.

³⁷ Hennop, "Illegal Firearms in Circulation," 17.

³⁸ Id.

³⁹ Meek, "Transition and Illegal Weapons," 6.

Joint operations with the Mozambican Police have had some success, but weapon smuggling persists across South Africa's porous borders.⁴⁰ As long as there is an unsaturated demand for firepower in South Africa, weapons smugglers will continue to find a way to supply.⁴¹

4. PRIVATE SECURITY COMPANIES

In South Africa private security personnel outnumber police personnel by two to one. In January 2000 there were 4 856 registered security companies with 163 545 security personnel.⁴² However, there are approximately another 100 000 unregistered security guards not regulated by the Security Officers Board.⁴³ The control over the issue of weapons is lax and many firearms go missing.⁴⁴ However, the exact number of firearms lost or stolen from private security firms remains unknown.

5. HOME-MADE FIREARMS

There is little information available regarding home-made firearms and their use in crime. Home-made weapons are usually only utilised by their manufacturer and not often circulated among different users. In 1998, 3066 home-made firearms were recovered by the police, but it is estimated that there are tens of thousands illegally owned.⁴⁵

6. CONCLUDING COMMENTS

There are many questions concerning the illegal sourcing of firearms in South Africa that remain unanswered. Exactly what proportion of firearms are obtained from particular

⁴⁰ Hennop, "Illegal Firearms: Tracking Sources."

⁴¹ Meek, "Transition and Illegal Weapons," 6.

⁴² Criminal Justice Monitor in *Nedcor ISS Crime Index* vol. 4 no 1 (Jan/Feb 2000) (<http://www.iss.co.za/Pubs/Crime%20Index/No.%201%202000/CJM.html>) (26/07/00).

⁴³ G. Mills and G. Oosthuysen, "Weapons Control is Right Out of Control," in *The Saturday Star*, 4 November 1995, cited in Besdziek, "Into the Breech," 23.

⁴⁴ Minnaar, "A Plague of Guns," 25.

⁴⁵ Hennop, "Illegal Firearms in Circulation," 29.

categories of legal firearm owners can only be estimated. The extent of the illegal trade in unlicensed arms is unknown as well as the ease with which criminals could obtain firearms from an alternative source should current pools dry up. What is known is that a substantial number of firearms are lost or stolen from civilian sources. The SAPS are responsible for a smaller number, but the ratio of firearms lost or stolen to the number of firearms owned by the police is greater than the ratio for civilian taken as a group.⁴⁶

It is essential that every effort be made to eliminate the leakage of legal firearms into illegal circulation. Limiting civilian gun ownership would certainly reduce a ready source of arms for the criminally inclined. However, there are already a large number of illegal firearms in circulation and a number of different sources from which arms can be acquired. Thus, it cannot be assumed that effective control measures would necessarily deprive criminals of access to firearms.

Also, it is important to acknowledge that the level of legal civilian gun ownership does not necessarily determine the level of leakage of legal firearms into illegal pools. As Altbeker, points out, firearms are most likely to be lost by those who have only recently acquired their licence to possess a firearm.⁴⁷ Where a mature and responsible culture of gun ownership prevails, criminal misuse of legal firearms is rare⁴⁸ and the leakage of civilian firearms into illegal circulation, negligible.

⁴⁶ National Firearms Forum, "Submission on the Firearms Control Bill B34 –2000." (<http://www.pmg.co.za/FirearmsBill/NFF.htm>) (03/08/2000).

⁴⁷ Altbeker, "Are South Africans Responsible Firearm Owners," 11.

⁴⁸ Juan de Greef, "The Role of NGO's in the Control of Light Weapons: A Case Study of the South African Gun Owners Association," in *Society Under Siege*, ed. Virginia Gamba, 231-232.

CHAPTER 7 DEFENSIVE GUN USE

The framers of South Africa's crime prevention policies are clearly of the persuasion that firearms in civilian hands do more damage than good. The NCPS asserts that "the number and easy accessibility of firearms is a major contributor to violent crime."... "The fact that a large proportion of the citizenry is armed,¹ serves to escalate the levels of violence associated crime."²

However, it appears that many South African citizens are not convinced. Most civilians who own guns cite self-defence as at least one of, if not *the*, motivating factor/s.³ Indeed, the alleged frequency and efficacy of defensive gun use (DGU) is one of the main reasons for opposition to stringent restrictions on civilian ownership of self-defence weapons. It also constitutes a large part of the argument disputing the alleged correlation between the prevalence of privately owned firearms and violent crime.

Gun control advocates respond that the perception that a firearm provides increased security is misguided. They assert that "the cases of people attacked and robbed of their guns, and often shot with their own guns, far outnumber the occasions when somebody successfully defends themselves with a gun."⁴

For any meaningful discussion on gun control to take place, both sides must admit that firearms can be used, both to injure and take life, as well as to prevent injury and protect life. Whether firearms in the hands of civilians prove ultimately to be hazardous or helpful, depends on the relative frequency (and efficacy) of legitimate gun use and illegal abuse.

¹ Interestingly only 6 percent of South African civilians legally own arms. Meek, "Legal Firearms in South Africa," 37.

² Inter-departmental Strategy Team, *NCPS*, 22.

³ Meek, "Legal Firearms in South Africa," 36.

⁴ Hammond, "UCA Submission on Bill."

If the sum total of violent crimes perpetrated with firearms that were once legally licensed to civilians, exceeds the number of incidents in which privately owned firearms are used to deter violent crime, then effective gun control would, on the whole, save lives. However, if armed civilians deter more violent crimes than incidents perpetrated with previously licensed civilian weapons, then the net effect of gun control would be a greater loss of life and limb. Thus proving or discrediting the efficacy and frequency of defensive gun use becomes vital to the case of those on both sides of the gun control debate.

1. THE EFFECTIVENESS OF DEFENSIVE GUN USE

There are some spectacular examples of private citizens using their licensed firearms to ward off criminal attack. One such example is the assault on St. James Church on 25 July 1993 where APLA terrorists killed eleven people and wounded fifty-five. One of the congregants returned fire wounding one attacker and the heavily armed terrorists took flight. The police applauded the congregant's prompt action, contending that fatalities would have been much higher had Charl van Wyk not taken the decisive action that he did.⁵

From examples such as this one, it is clear that a firearm can be used very effectively to ward off a criminal attack. However, the gun control lobby would presumably argue that this is the exception rather than the rule. In responding to claims that law-abiding citizens require firearms to protect themselves from armed criminals, gun control advocates claim that having a gun does not in fact make one more secure. If attacked by an assailant, simple compliance is supposed to be a safer strategy than resistance. Defensive gun use supposedly escalates the conflict as armed attackers will open fire if fired upon, and this will increase the risk of injury to oneself and bystanders.⁶

⁵ Ibid.

⁶ GFSA, "Gun Free South Africa " (<http://www.wits.ac.za/csvr/gunfree.htm>) (25/08/2000).

This preference for compliance is most often supported by reference to the United States Department of Justice's National Crime Victimization Survey. If passive behaviour is compared to all forms of active resistance lumped together, passive behaviour is indeed slightly safer than active resistance. However, the category "active resistance" includes all kinds of resistance like using one's fist, kicking, yelling and screaming, running away, using Mace, a baseball bat, a knife, or a gun. Many of these behaviours are very ineffective and certainly much more dangerous than passive behaviour. However, using a gun is not.

In the case of a woman who is attacked by a stronger man, fighting back with her fists is the most dangerous course of action as it is likely to elicit a physical response from the attacker and increase the chances of serious injury or death to the woman. For women, by far the safest form of defence is to have a gun.

By examining data from the National Crime Victimization Survey, Southwick found that the probability of sustaining serious injury from an attack is 2.5 times greater for women offering no resistance compared to those resisting with a gun. For those who resist without a gun the probability is four times as high than for those resisting with a gun.⁷ For men, behaving passively is 1.4 times more likely to result in serious injury than resisting with a gun. Resistance without a gun is 1.5 times more likely to cause injury than resistance with a gun.⁸

For the prevention of rapes specifically, it is highly advantageous for a women to be armed. Another U.S. Justice Department study of more than thirty-two thousand rapes or attempted rapes, found that the best protection against rape is for a woman to be armed. When a potential victim of rape was armed with a firearm or knife, only 3 percent of the attempted rapes succeeded.⁹

⁷ Lawrence Southwick, Jr., "Self- Defence with Guns: The Consequences," in *Managerial and Decision Economics* (forthcoming) and Gary Kleck, *Point Blank: Guns and Violence in America* (Hawthorne, N.Y. : Aldine de Gruyter Publishers, 1991) cited in John Lott, Jr., *More Guns, Less Crime: Understanding Crime and Gun Control Laws* (Chicago: University of Chicago Press, 1998), 4.

⁸ Lott, *More Guns, Less Crime*, 4.

⁹ Law Enforcement Assistance Administration, *Rape Victimization*, 1979 cited in Hammond, "UCA Submission on Bill."

Kleck's research reinforces that the *safest* response when confronted by an armed robber is for a victim to display his/her own firearm. In 98 percent of the cases examined, the mere brandishing of the firearm proved sufficient to deter the attacker. Potential victims who defended themselves with a gun suffered lower rates of injury than did those who resisted without a gun, or even those that complied fully with the criminal's demands.¹⁰

A study conducted by John Mann in 1994 researched 206 cases of DGU (excluding police or military personnel) reported in the Gauteng area. Despite victims usually being outnumbered by attackers (on average 2,75 to 1) victims armed with a gun managed to defend themselves very effectively against armed assailants. 36 percent of attackers were killed or arrested by the potential victims and the other 64 percent of attackers fled. Only eight victims died and no bystanders or innocent parties were injured by actions taken by defenders.¹¹

Gun Free South Africa relies on the research conducted by Altbeker to assert that an individual is four times more likely to have their weapon stolen than to use it in self-defence. Altbeker examined 602 police dockets of criminal incidents in Alexandra and Bramely, of which 506 involved use of a firearm. His findings included that fifty of the victims were known to have been carrying guns at the time of the incident. Of these fifty, thirty-nine had their weapons stolen. In only twenty-four cases was a firearm actually used by the victim or third party in defence.¹² Gun possession, it is proposed, actually increases a person's chance of attack as criminals may specifically target gun owners in order to obtain the firearm.¹³

However, by utilising police dockets of cases in which the perpetration of a crime was successful, Altbeker excludes all those cases in which a gun was actually used to prevent a crime from occurring. Altbeker himself acknowledges that his findings are not generalisable and, therefore, cannot be used to estimate the frequency or efficacy of defensive gun use in South Africa.

¹⁰ Gary Kleck, "Crime Control," in *Social Problems*, (1998) in Hammond, "UCA Submission on Bill."

¹¹ Hammond, "UCA Submission on Bill."

¹² Altbeker, "Guns and Public Safety," 2.

¹³ GFSA, "Gun Free South Africa."

2. THE PREVALENCE OF DEFENSIVE GUN USE

On the basis of the evidence presented in the previous section, it appears that using a firearm in self-defence is one of the safest and most effective strategies that can be employed if attacked by an assailant. There appears to be no foundation for the claim that compliance is a safer strategy than defensive gun use. However, it is also vitally important to establish how frequently private citizens actually do deter violent criminals.

In the United States, fairly comprehensive research has been done in this area. One of the interesting features of this research is the large discrepancy in the incidence of defensive gun use that respective surveys report.

Using the National Crime Victimization Survey, Phillip Cook contends that annually there are only between eighty and eighty-two thousand defensive uses of guns during assaults, robberies, and household burglaries.¹⁴ By contrast, other surveys imply that private firearms may be used in self-defence up to two and a half million times each year, with four hundred thousand of these defenders believing that using the gun “almost certainly” saved a life.¹⁵

One of the most famous studies pertaining to DGU was conducted by Kleck and Gertz in 1995. They conducted an extensive telephonic survey amongst the American population, making a concerted effort to correct the errors and methodological flaws that marred previous surveys. The results from their survey indicate that in America there are over two million protective uses of firearms each year. Their analysis of ten other nation-wide polls implies that there are 760 000 to 3.6 million defensive uses of guns per year.¹⁶ Thus in all likelihood the real incidence of DGU is much higher than the National Crime Victimization Survey estimates.

¹⁴ Phillip Cook, “The Technology of Personal Violence,” in *Crime and Justice: Annual Review of Research* (1991) cited in Lott and Mustard, “Crime and Deterrence,” 2.

¹⁵ Kleck and Gertz, *Armed Resistance to Crime*, 177.

¹⁶ Kleck and Gertz, *Armed Resistance to Crime*, 158, 182.

While the incidence of defensive gun use abroad does not shed any light on the regularity of DGU in South Africa, these figures serve to indicate that defensive gun use could possibly be more frequent than gun control advocates would like to admit. Importantly the research findings from America suggest that it may be difficult to establish an objective estimate of the frequency of DGU. Reasons for this could include disparities with regard to the definition of DGU, variance in survey design and the framing of questions, as well as potential bias on behalf of researchers who could interpret their results in the light of pre-existing convictions.

Given the significance of DGU, one would expect extensive research to have been conducted in South Africa to measure the frequency with which law abiding citizens utilise their licensed firearms to ward off criminal attack. However, information on this is extremely scarce.

According to the Human Sciences Research Council survey, 2 percent of respondents indicated that they had used a firearm to defend themselves or a family member. As a proportion of the total South African population, this would suggest that there are approximately 81160 incidents of DGU (possibly per year as period not specified.)¹⁷ It is not known how many of the respondents actually owned a licensed firearm and were thus in a position to use a firearm in defence of themselves or their family.

By contrast, a reader survey conducted in South Africa by Magnum Magazine reported that private citizens used their licensed weapons in more than 2.5 million incidents over a two-year period. As in the American surveys, it was reported that in most cases attackers retreated at the sight of the potential victim's gun without any shots being fired by the potential victim.¹⁸ Given that Magnum Magazine caters largely for the armed population it is likely that a very high percentage of respondents owned licensed firearms. This could explain why the reported defensive gun usage was much higher in this survey than the HSRC one.

¹⁷ Robert Chetty, "Perceptions and Experiences of Firearm Use," in *Firearm Use and Distribution*, 63.

¹⁸ Juan de Greef, "The Role of NGO's in the Control of Light Weapons: A Case Study of the South African Gun Owners Association," in *Society Under Siege*, ed. Virginia Gamba, 235.

Given that the number of defensive gun uses has yet to be decisively determined, it is difficult to see how it can be asserted, as Leher and Hansson do,¹⁹ that a domestic firearm is more likely to be used on a friend or family member than on an intruder. Nonetheless this claim is often used to counteract the argument for defensive gun use. This assertion is made frequently by gun control advocates and is often based on research conducted by Kellermann and Reay.²⁰

However, the likelihood of a licensed firearm owner shooting a friend or family member relative to the likelihood of them shooting an intruder, does not say anything about how often firearms are actually used to defend and protect. This information may be pertinent to the relative advantages and disadvantages of a firearm in the home, but not to the frequency or efficacy with which that firearm may be used in a defensive manner.

3. THE DETERRENT EFFECT

The previous section established that in South Africa an accurate estimate of the incidence of defensive gun use remains elusive. Despite difficulties that may be encountered, victimisation surveys could possibly establish an accurate estimate of DGU at some point in the future. What is even more difficult to measure is the number of crimes not even attempted because of the possibility of encountering an armed victim.²¹

Based on the assumption that criminals are by and large rational actors, it can be expected that increasing the costs of crime relative to the potential benefits would deter people from engaging in criminal activity. This is known as the deterrent effect.²²

¹⁹ L.B., Leher and Desiree Hansson. "Smoking Guns and Public Health."

South African Medical Journal vol. 83 (Sept 1993).

²⁰ Arthur L. Kellermann and Donald T. Reay, "Protection or Peril: An Analysis of Firearm Related Deaths in the Home," in *New England Journal of Medicine* vol. 314 no. 24 (1986) 1559.

²¹ Wright, Rossi and Daley, *Under the Gun*, 124.

Given current high levels of violent crime in South Africa it would appear that violent criminals are not deterred by the threat of legal sanction. Even in America the threat of prison does not seem to effectively deter crime as most criminals do not expect to get caught. Over seventy five percent of those criminals interviewed by Wright and Rossi said that they were unafraid of getting caught at the time of the offence.²³ Opponents of strict gun control assert that the only effective deterrent is "the fear of being caught, injured or killed during the pursuance of an illegal violent act. A firearm is the only really effective deterrence against violent criminals."²⁴ If a large proportion of the population is armed, this may create a "positive externality" for others. The nature of concealed handgun laws would mean that most of the time criminals would not know who was armed and who was not. Thus the greater the number of armed individuals, the greater the chance of any particular victim being armed, the greater the potential costs of crime to the perpetrator.²⁵ The increased cost could offset potential benefits and thus make criminals more wary of confrontational crime. Criminals may not be deterred from crime altogether but would possibly consider criminal activities that minimised confrontation between victim and perpetrator.²⁶

Wright and Rossi's research among convicted felons strongly supports the idea that armed victims constitute a real deterrent to confrontational crime. About three fifths of their sample agreed that "a criminal is not going to mess around with a victim he knows is armed with a gun." Four fifths agreed that "a smart criminals always tries to find out if his potential victim is armed" and three fifths agreed that "criminals are more worried about meeting an armed victim than they are about running into the police." It is interesting to note that those criminals in states with the highest levels of civilian gun ownership appeared to be the most worried about armed victims.²⁷

²² Wright and Rossi, *Armed and Considered Dangerous*, 6.

²³ Wright and Rossi, *Armed and Considered Dangerous*, 144-145.

²⁴ Wesson, "Murder and Private Firearms."

²⁵ Lott and Mustard, "Crime and Deterrence," 4.

²⁶ *Ibid.*, 24, 64.

²⁷ Wright and Rossi, *Ibid.*, 144-145.

About three quarters said that burglars tend to avoid breaking into occupied residences because they fear being shot and about one third had actually personally been “scared off, shot at wounded or captured by an armed victim.”²⁸ While the vast majority of felons were not concerned about being arrested or imprisoned, they were certainly concerned about the prospect of meeting an armed victim.²⁹ Data reported later indicated that about two fifths of the sample had at some time actually chosen not to commit a crime because they knew or believed their potential victim to be armed.³⁰

Wright and Rossi’s findings support the claim that civilians armed with firearms constitute a significant deterrent to the criminally inclined. Their work suggests that may be both effective and fairly frequent, judging from felon’s encounters with armed victims.

Lott and Mustard’s seminal study also strongly supports the notion that criminals respond rationally to deterrence threats. Their work is by far the most comprehensive study of the relationship between gun control laws and crime with data spanning eighteen years drawn from approximately three thousand counties in the U.S.A. Lott and Mustard examined the incidence of crime before and after the implementation of “shall issue” concealed carry laws, that demand that firearm licenses be issued to all qualified adults without discretion.

Their research finds unequivocally that increased civilian gun ownership deters confrontational violent crime. When concealed handgun laws were implemented the rate of murders fell by 7.65 percent, rapes by 5 percent and aggravated assaults by 7 percent.³¹ Concurrently, the incidence of non-confrontational property crimes rose after the implementation of “shall issue” laws. An additional decrease in violent crimes continued for years after the laws went into effect. The annual decrease in violent crimes averaged about 2 percent, while the annual increase in property crimes averaged about 5 percent.³²

²⁸ Ibid., 154.

²⁹ Ibid., 144-145.

³⁰ Id.

³¹ Lott and Mustard, “Crime and Deterrence,” 19.

³² Ibid., 34.

Lott and Mustard conclude that criminals responded substantially to the threat of being shot by rather engaging in less risky criminal activities that minimised contact between victim and perpetrator. They stipulate that concealed handguns are the most cost-effective method of reducing crime analysed so far by economists, proving more effective than increased policing or incarceration, other private security devices, or social programs.³³

4. CONCLUDING COMMENTS

Despite the importance of Wright and Rossi and Lott and Mustard's findings, there are no indigenous studies that indicate whether, on the whole, South African offenders are deterred by the potential of meeting an armed victim. The incidence of robbery of a firearm (the use of force to take possession of the firearm) indicates that at least a number of South African criminals are not at all deterred by the prospect of an armed victim.

It is quite possible that both South African criminals and armed law abiding citizens differ in significant respects to their American counterparts. South African criminals may be more brazen and fool hardy. Law abiding citizens may be abysmal shots, ill trained or ill prepared to defend themselves. It is also possible that the circumstances under which crime is commonly perpetrated in South Africa may differ to those in the United States and may either facilitate or hinder the potential for DGU.

Unfortunately, at the moment these possibilities remain untested. Until such time as comprehensive indigenous research is conducted into these matters, debates on the frequency and efficacy of defensive gun use and the deterrent effect in South Africa will remain based on unqualified assumptions.

³³ Ibid., 65.

CHAPTER 8 TESTING THE CORRELATION

The most basic tenet of the argument for strict gun control is that licensed civilian gun ownership contributes to the level of violent crime in society.¹ As Adele Kirsten of Gun Free South Africa put it “it is clear... that the availability of guns in South Africa contributes significantly to the incidence of violent crime.”² Given that this alleged positive correlation is a fundamental building block upon which the argument for strict gun control is based, it is unsurprising that this issue has become the subject of much controversy abroad. However, in South Africa it is remarkable how this relationship is seen as common knowledge and often taken for granted. Dr. Fanaroff states that “there is no doubt that the easy availability of firearms contributes to the high level of violence and violent crime.”³

If this is the case then there should be a demonstrable correlation between levels of licensed civilian gun ownership and levels of violent crime. Most often, comparisons have been utilised to demonstrate a positive correlation between the prevalence of civilian gun ownership and violent crimes such as homicide, aggravated assault and robbery and single case studies, have been used to illustrate the point.⁴

International comparisons have been a popular way of demonstrating a relationship between these variables.⁵ Outside of South Africa, one of the typical comparisons has been between the U.S. and Japan and Britain. The U.S. has higher levels of civilian gun ownership and higher levels of violent crime than both Britain and Japan. This fact has been used to imply a positive relationship between the two variables. In addition to international comparisons, particularly within the U.S. there have been international and inter-regional comparisons and inter-city comparisons that have claimed to demonstrate this relationship.⁶

¹ Hansson, “Guns and Control,” 9.

² Adele Kirsten, “Firearm Legislation and Violent Crime: Room for Change.” (<http://www.iss.co.za/Pubs/Crime%20Index/...ction%20I/Firearms%20Legislation%20.html>).

³ Fanaroff, foreword to Chetty, *Firearm Use and Distribution*, 7.

⁴ Hansson, “Guns and Control,” 9.

⁵ Id.

⁶ Ibid., 9-10.

International comparison is of limited value when trying to establish the relationship between privately owned licensed firearms and violent crime. It is almost impossible to control for all the other factors that may impinge on the rate of violent crime such as a country's history of violence, cultural factors, religious influences, level of economic development, political circumstances etc. Wesson suggests that only once a "National Violence Index" has been developed that weights relevant sociological, historical, cultural and other factors, will international comparison be viable in this respect.⁷

As many authors have pointed out,⁸ the vast majority of these studies are marred by severe methodological flaws that cast doubt on the validity of the data generated. One common shortcoming is the failure to control for extraneous variables. The data produced by the studies has also been used to infer erroneous conclusions. One such dubious conclusion is that the alleged correlation between civilian gun ownership and violent crime indicates causality.⁹

However, if there is indeed a positive correlation between these variables, it could be that rising crime rates caused increased civilian firearm ownership and not the other way around.¹⁰ Thus, even if the alleged correlation exists, it certainly does not prove causality. Nonetheless, international comparison is a tool often used to "prove" the value of strict gun control policies and, therefore, the available evidence needs to be examined despite its shortcomings.

1. EVIDENCE FROM THE SADC REGION

Guns can be used in a multiplicity of ways and circumstances. However, when analysing the relationship between private licensed firearms and violent crime by means of international comparison, murder rates tend to be the preferred indicator of levels of violent crime. The reasons for this include the very high reportage of murder and the availability of murder statistics across countries.

⁷ Wesson, "Murder and Private Firearms."

⁸ For example Lott, *More Guns, Less Crime* and Hansson, "Guns and Control."

⁹ Turner and Leyens, 1992 cited in Hansson, "Guns and Control," 10.

¹⁰ Kleck 1984, McDowall and Loftin 1986 in Hansson, id.

Evidence from the SADC region with regard to the alleged correlation between civilian gun ownership and violent crime is scant, with the local debate being informed largely by Katherine McKenzie's case studies of gun control legislation in the SADC region.

McKenzie examined the legislation regulating firearm ownership in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe, and also conducted interviews with police, academics and NGO representatives in the respective countries. For each country examined in her report, McKenzie supplies general information pertinent to the discussion such as economic prosperity, recent history of conflict and population size. She also describes the domestic gun control policy, the crime situation and available firearm statistics.

From a comparison of these ten case studies she concludes that "the convergence of poverty, unemployment, a gun culture and the availability of firearms is a lethal combination which results in high levels of gun crime. ...Countries in the region with effective gun control policies and fewer firearms in circulation have less gun crime and are safer than countries with permissive gun control policies and more firearms in circulation."¹¹ As Wesson puts it "the argument is ... that the removal of private licensed firearms will reduce violence and especially death".¹²

In her submission on the Firearms Control Bill, McKenzie makes special reference to Botswana, which she claims has implemented a total ban on the issuing of handgun licences.¹³

¹¹ McKenzie, "Domestic Gun Control Policy," 3.

¹² Wesson, "Murder and Private Firearms."

¹³ McKenzie lauds the ban on firearm ownership as police resources are not taxed by having to manage and control large scale civilian gun ownership and are therefore free to fulfil their core responsibilities. She makes no mention however, on police resources expended in the enforcement of the total gun ban. McKenzie, "Submission on Bill," 3.

Provisional police statistics for 1998 reveal that only 11 armed robberies were reported that year. Comparatively, in the same year in South Africa, 69 501 robberies were committed with firearms.¹⁴ In Botswana the murder rate is a quarter that of South Africa.¹⁵

McKenzie does not take into account those extraneous variables that may explain the apparent relationship between two factors. For instance Botswana has no history of a liberation struggle, while South Africa does. This could explain the variance in murder rates and violent crime without any reference to gun control laws. Secondly one cannot take only two cases and make an argument for the correlation between two factors, which could well, be spurious. For that one would have to demonstrate a trend over a number of different cases. In general the statistical ability to control for extraneous variables increases with sample size.¹⁶

If only two cases were sufficient then the argument could easily be made the other way by comparing Botswana and Namibia or Namibia and South Africa. Botswana with its total ban on private protection firearms has a murder rate (14 murders per 100 000) almost three times that of Namibia (5 murders per 100 000) with its availability of firearms for personal protection. Furthermore, Botswana does not have a history of a liberation struggle, while Namibia does.¹⁷

Namibia and South Africa have a similar history of liberation struggle. Final figures are not yet available but again the official estimates suggest that Namibia has a similar, and perhaps higher, per capita ratio of licensed firearm ownership than South Africa and yet the murder rate in Namibia is about one twelfth that of South Africa.¹⁸

¹⁴ McKenzie does make allowance for the fact that South Africa's population is significantly larger than Botswana's. Katharine McKenzie, "Oral comments by Katherine McKenzie on the Firearms Control Bill," (14 August 2000) (<http://www.pmg.co.za/FirearmsBill/McKenzie.htm>) (03/08/2000).

¹⁵ Antoinette Louw and Mark Shaw, "Dubious Distinctions: Comparing Crime Across Countries," in *Nedcor ISS Crime Index* vol. 2 no. 3 (1998) cited in McKenzie, "Domestic Gun Control Policy," 32.

¹⁶ Wright, Rossi and Daley, *Under the Gun*, 126.

¹⁷ Wesson, "Murder and Private Firearms."

¹⁸ NFF, "Submission on Bill."

The SADC country with the strictest firearm legislation is Swaziland. Firearms for protection are effectively banned and even hunting firearms are severely restricted. However, Swaziland has by far the highest violent crime and murder rate within SADC at 25 percent higher than South Africa's.¹⁹ Swaziland has a higher murder rate than South Africa at 80 per 100 000, yet ownership of firearms is only 1.1 percent. Furthermore, traditionally very few of these murders are committed with firearms.²⁰

Wesson points out that Botswana, Lesotho and Zambia have similar murder rates of 14, 15.5 and 13 per 100 000 respectively. Lesotho and Zambia allow ownership of licensed personal protection firearms while Botswana does not. In addition to this Namibia has the lowest murder rate of all six countries (5 per 100 000) but allows private ownership of licensed firearms.²¹

These observations all undermine the assertion that there is a direct correlation between availability of privately owned licensed firearms and the murder rate.²²

Furthermore, Wesson considers all six countries for which McKenzie provides murder rates in an attempt to establish whether the alleged correlation does in fact exist. McKenzie supplies murder statistics for Botswana, Namibia, Lesotho, RSA, Swaziland and Zambia. Murder statistics for Mozambique, Malawi, Tanzania and Zimbabwe were unavailable. In addition to the information provided by McKenzie relating to these four countries, Wesson calculates an estimate of the murder rate for Zimbabwe (5 per 100 000) based on combined murder and attempted murder figures provided by the Zimbabwe Government Census and Statistics Office.²³

¹⁹ NFF, "Submission on Bill."

²⁰ The Clay Target Shooting Association, "Oral Submission on the Firearms Control Bill."

²¹ Wesson, "Murder and Private Firearms."

²² Id.

²³ Id.

TABLE 11. HOMICIDE RATES IN SIX SADC COUNTRIES

COUNTRY	POPULATION	No. MURDERS	MURDER RATE
Botswana	1.60m	217	14 per 100 000
Namibia	1.62m	82	5 per 100 000
Lesotho	2.10m	325	15.5 per 100 000
RSA	43.0m	12 267	64 per 100 000
Swaziland	0.97m	n/a	80 per 100 000
Zambia	10.0m	1347	13 per 100 000

(Source: McKenzie, "Domestic Gun Control Policy" cited in Wesson, "Murder and Private Firearms.")

When comparing cases it is vital that one compare like with like and control for extraneous variables. Wesson argue that only four of the six countries make for suitable comparison based on cultural similarities, economic activities, degree of urbanisation and population distribution within these countries. RSA and Swaziland are excluded as being atypical²⁴ with regard to the factors under consideration.²⁵

Wesson attempts to analyse the significance of these figures in relation to gun control laws by devising a quantitative measure of the qualitative expression "ease of obtaining a licence for self protection purposes" can be obtained. He does this by weighting factors in relation to the difficulty of obtaining a licence in relation to both Botswana and South Africa using a scale of 0-10. 0 represents impossibility of obtaining a private licence for a personal protection firearm whereas 10 indicates no controls.²⁶

²⁴ It is acknowledged that evaluation of whether cultures, economies etc are comparable is a subjective decision that may be disputed. Wesson, "Murder and Private Firearms."

²⁵ Ibid.

²⁶ See Wesson, "Appendix A" in "Murder and Private Firearms" for an exact description of how the weights and scalars were calculated.

TABLE 12. WEIGHTED AVAILABILITY OF LEGAL PERSONAL PROTECTION FIREARMS AND HOMICIDE RATES FOR FIVE SADC COUNTRIES

COUNTRY	WEIGHTED AVAILABILITY OF LEGAL PERSONAL PROTECTION FIREARMS	MURDER RATE PER 100 000 OF THE POPULATION
Botswana	0	14
Lesotho	2	15.5
Namibia	7	5
Zambia	3	13
Zimbabwe	7.5	5

(Source: Wesson, "Murder and Private Firearms")

Plotted on a graph, these figures appear to demonstrate a trend. For the five countries under consideration, murder rates tend to be higher for those countries with perceived increased difficulty in obtaining licences for firearms for personal protection purposes. In conclusion then it appears that, notwithstanding the limitations) there is *no evidence* from the data collected with regard to SADC countries that supports the alleged positive correlation between civilian gun ownership and homicides. If anything the data suggests the exact opposite.²⁷

2. INTERNATIONAL EVIDENCE FROM OUTSIDE THE SADC REGION

2.1 Comparative Evidence

The figures in table 13 have been used, to support the thesis that there is a positive correlation (0.43) between firearm ownership and murder rates.²⁸

²⁷ Wesson tested the result of his analysis for correlation and sensitivity. See "Appendix B" of "Murder and Private Firearms." His finding confirmed a high degree of negative correlation (easier access, less murders).

²⁸ Kleck, 1997 in Wesson, "Murder and Private Firearms." Table 13 has been arranged in descending order from the country with the highest percentage household firearm ownership to the lowest.

TABLE 13. INTERNATIONAL COMPARISON OF HOMICIDE RATES PER 100 000 AND PERCENTAGE HOUSEHOLDS WITH GUNS.

COUNTRY	YEAR	TOTAL HOMICIDES PER 100 000 POP.	FIREARM HOMICIDES	NON-GUN HOMICIDES	% HOUSEHOLDS WITH GUNS
United States	1997	6.8	4.6	2.21	48.0
Norway	1992	2.16	0.76	1.40	29.1
Canada	1993	0.97	0.30	0.67	32.0
Switzerland	1994	1.32	0.58	0.74	27.2
Finland	1994	3.24	0.86	2.38	23.2
France	1994	1.12	0.44	0.68	22.6
New Zealand	1993	1.47	0.17	1.30	22.3
Australia	1994	1.86	0.44	1.42	19.4
Belgium	1990	1.41	0.60	0.81	16.6
Italy	1992	2.25	1.66	0.59	16.0
Sweden	1993	1.30	0.18	1.12	15.1
Spain	1993	0.95	0.21	0.74	13.1
Germany	1994	1.17	0.22	0.95	8.9
Northern Ireland	1994	6.09	5.24	0.85	8.4
South Africa	1996	64.64	26.63	38.01	5
Scotland	1994	2.24	0.19	2.05	4.7
England & Wales	1992	1.41	0.11	1.30	4.7
Netherlands	1994	1.11	0.36	0.75	1.9

(Sources: Murder rates from International Journal of Epidemiology (1998:27:216), percentage households with firearms from Canadian Medical Association Journal, M. Killias (1993) cited in Wesson, “Murder and Private Firearms”) (South Africa’s data from UN United Nations Economic and Social Council: Commission on Crime Prevention, *Measures to Regulate Firearms* (United Nations: Vienna, 1997),18,23.)

Kleck ²⁹ demonstrates that by removing two countries from the data set, there is a much stronger trend the other way. The US and Northern Ireland should be excluded because the US has a different history of violent crime to Europe, as well as other sociological factors, and Northern Ireland is subject to a peculiarly volatile situation that distorts crime figures.

²⁹ Kleck, 1997 in Wesson, “Murder and Private Firearms.”

The U.K. is often heralded as the supreme example of the efficacy of strict gun control. Of all the countries represented in table 12, England and Wales have the lowest rate of firearm homicides (0.11 per 100 000).

However, if the rate of homicides (both firearm and non-firearm) is considered, then there are seven countries represented in table 12 that have lower murder rates than England and Wales, with a total murder rate of 1.41 per 100 000. Of the seven, only one, the Netherlands, has fewer firearms per household than England and Wales. Spain has approximately three times the number of firearms per household, by percentage, than England and Wales, but has about two thirds of its murder rate. Belgium has the same murder rate as England and Wales, but the percentage of household firearm ownership is three times that of England and Wales.³⁰

Interestingly, since 1988, the number of legal firearm owners in Great Britain has dropped by almost 19 percent, yet in the same period robbery with a firearm doubled, and the overall violent crime rate increased by 29 percent. In 1996 alone, violent crime rose by 10 percent.³¹

From table 12 it is evident that, ironically, South Africa's rate of legal firearm ownership is in fact closest to that of the United Kingdom. However, the discrepancy in homicide rates could not be larger. South Africa's rate of firearm ownership is also about one seventh of that of the United States and yet South Africa's murder rate is about nine times that of the U.S. In fact, while South Africa's murder rate is the highest of all countries represented, South Africa's percentage of legal firearm ownership is one of the lowest.

From an international comparison of homicide rates and levels of civilian gun ownership, it is difficult to see how it can be asserted that high levels of civilian gun ownership translate into high levels of violent crime. Even a cursory glance at the figures suggests that if legitimate firearm ownership is a contributing factor in violent crime, it is extremely limited.

³⁰ Wesson, "Murder and Private Firearms."

³¹ Clay Target Shooting Association, "Submission on Bill."

2.2 Evidence from the U.S.A.

A watershed study conducted in the United States in 1997 by Lott and Mustard was the first of its kind to overcome the difficulties encountered by previous studies by combining cross sectional and time series data and controlling for changing law-enforcement factors like arrest or conviction rates, prison sentence lengths. It was this study that formed the basis of Lott's controversial book, *More Guns, Less Crime*.

Lott and Mustard analysed eighteen years of FBI data collected from three thousand U.S. counties. They examined levels of crime before and after the implementation of "shall issue" right-to-carry gun laws in 10 U.S. states between 1977 and 1992 controlling for other variables that may influence crime levels. "Shall issue" laws require that authorities issue, without discretion, concealed-weapons permits to qualified applicants.³² On a continuum of gun control legislation, "shall issue" laws are probably the most liberal, guaranteeing the right of all suitable adults to carry a firearm. Especially in states that previously discouraged civilian gun ownership by stricter gun control policies, the adoption of these laws would probably have raised the level of civilian gun ownership quite significantly.³³

Regression analysis revealed that the implementation of "shall issue" laws coincided with fewer murders, rapes and aggravated assaults but with higher rates of motor car theft and fraud.³⁴ As the incidence of violent crimes fell, so the incidence of non-confrontational property crimes rose. Thus, it would appear that criminals responded to the threat of being shot by instead engaging in less confrontational crimes.³⁵

When state concealed handgun laws went into effect in a county, murders fell by 7.65 percent, rapes by 5 percent, aggravated assaults by 7 percent. In particular, subsequent to the passing of "shall issue" concealed handgun carry laws, incidents of multiple victim public shootings declined by 84 percent. Deaths from these shootings have plunged by 90 percent and injuries

³² Lott and Mustard, "Crime and Deterrence," 4.

³³

³⁴ Ibid., 18.

³⁵

by 82 percent.³⁶ If these calculations are accurate then the net effect of allowing concealed handguns saves lives contrary to claims by the gun control lobby.³⁷

While the substitution effect has usually been tested in the context of the decreased availability of firearms, Lott and Mustard tested for the substitution effect if the prevalence of firearms increased rather than decreased. The implementation of “shall issue” concealed carry firearm laws effectively increased the general availability of firearms among the citizenry in the counties they were studying. Lott and Mustard attempted to measure whether this caused a substitution in the methods of committing murders and whether the number of gun murders rose after these laws are passed even though the total number of murders fell.

While concealed handgun laws raise the cost of committing murders, murderers may also find it relatively more dangerous to kill people using non-gun methods once people start carrying concealed handguns and substitute into guns to put themselves on a more even basis with their potential prey. Carrying concealed handguns appears to have been associated with approximately equal drops in both categories of murders. Carrying concealed handguns thus appears to make all types of murders relatively less attractive.³⁸

Lott and Mustard’s results consistently indicate a negative and statistically significant effect in rates of violent crimes, rape, and aggravated assault and high rates of licensed civilian firearms. On the basis of their analysis it would appear that “shall issue laws” reduce murder rates and other violent crimes but are correlated with a concurrent rise in property crime. The results also imply that the gun laws immediately altered crime rates, and that crime rates continued to decrease in subsequent years. The annual decrease in violent crimes averaged about 2 percent, while the annual increase in property crimes averaged about 5 percent.³⁹

³⁶ Hammond, “UCA Submission on Bill.”

³⁷ Lott and Mustard, “Crime and Deterrence,” 19.

³⁸ Ibid., 48.

³⁹ Ibid., 34.

3. CONCLUDING COMMENTS

An examination of the evidence from Southern Africa and abroad indicates that the alleged positive correlation between the prevalence of civilian gun ownership and the incidence of violent crime has yet to be empirically demonstrated. It appears that international comparison yields no such evidence and certain studies, in fact, find a *negative* correlation between high levels of civilian gun ownership and violent crime.

The lack of reliable evidence that consistently demonstrates the alleged positive relationship between high levels of legal civilian gun ownership and levels of violent crime, does not rule out the possibility that such a relationship exists. Also, that certain studies from America have indicated the exact opposite, does not imply that this is necessarily the case elsewhere in the world.

As this dissertation has demonstrated, there are a myriad of factors that impinge on the relationship between civilian firearms and violent crime, assuming such a relationship exists. What is fairly certain is that, despite assertions to the contrary, the relationship between levels of civilian firearm ownership and violent crime is neither simple nor direct.⁴⁰

⁴⁰ Wright, Rossi and Daley, *Under the Gun*, 12-14.

CHAPTER 9 CONCLUSION

This dissertation has undertaken to evaluate the hypothesis that the implementation of a policy of stringent firearm control in South Africa will significantly decrease levels of violent crime.

The discussion began with an examination of pertinent literature. Owing to the longevity of the gun control debate abroad, research into the relationship between weapons and crime is plentiful. The review of international literature was by no means exhaustive, but designed to shed light on those issues particularly relevant to the South African debate.

By contrast, indigenous research into the relationship between civilian arms and violent crime, is extremely scarce. The little research that has been conducted is frequently plagued by various methodological flaws, lacking in reliability and validity, not generalisable and often premised on pre-existing convictions about the efficacy of stringent gun control. While the international literature is not exempt from these limitations, it does appear that several studies, such as those conducted by Kleck and Gertz, as well as Lott and Mustard, have managed to overcome the shortcomings that plague much of the remaining research.

From an examination of both local and international literature, it seems difficult to find research in this area that is considered to be methodologically sound. Nonetheless, official documents, such as the National Crime Prevention Strategy, make sweeping statements about the positive relationship between high levels of civilian gun ownership and violent crime, about which it is claimed, there is no doubt.¹ It appears to the current author that the decision to adopt a policy of stringent gun control in South Africa was based on inadequate and selective evidence, rather than on well researched facts and a comprehensive understanding of all relevant factors.

¹ Inter-departmental Strategy Team, *NCPS*, 22.

As this dissertation has demonstrated, the relationship in question is extremely complex with civilian gun ownership possibly simultaneously decreasing and increasing the rate of violent crime. There are also a myriad of intervening variables that impinge on this relationship and affect the potential outcome of a stringent gun control policy.

In South Africa, rape, common assault and serious assault are very seldom perpetrated with a firearm and thus highly unlikely to be reduced by a policy of stringent firearm control. Those crimes routinely perpetrated with a firearm were found to be murder, attempted murder and robbery with aggravating circumstances.

For these three crime types, it was found likely that many criminals would merely substitute another weapon in the place of a firearm, should the availability of firearms decrease. Given that assaults with a firearm are generally more lethal than knife attacks, stringent firearm control would probably decrease the rate of “escalated dispute” firearm homicides, which comprise an estimated 20 percent of all homicides in South Africa. For premeditated homicides and “escalated dispute” murders involving knives or other weapons, gun control would probably cause no significant reduction.

However, because of the specific role that firearms play in armed robberies, it is possible that the incidence of murder and attempted murder related to armed robbery might *increase*, as well as the rate of armed robbery itself. Should this analysis prove correct, it appears that the class of violent crimes most likely to be reduced by stringent firearm control is comparatively small.

One of the most reliable findings generated by indigenous research is that a fairly large number of licensed civilian firearms enter illegal circulation through the loss, theft and robbery of legal weapons. Given South Africa’s alarming level of firearm- related crime, this definitely needs to be addressed. Limiting civilian gun ownership would certainly minimise a ready source of arms for the criminally inclined.

However, reducing the number of firearms licensed to civilians will not necessarily decrease the general availability of firearms to the criminal population. While it is essential that every effort be made to eliminate the leakage of legal firearms into illegal circulation, there are a number of different sources from which arms can be acquired. There are also a large number of illegal firearms already in circulation. The ease with which criminals could obtain firearms from an alternative source should civilian pools dry up, is unknown. Thus, it cannot be assumed that gun control measures would necessarily deprive criminals of access to firearms.

A much neglected subject in the South African research is the pivotal issue of defensive gun use. There is important international literature indicating that firearms are frequently and effectively used to *prevent* the perpetration of violent crime. There is also evidence to suggest that civilian gun ownership might act as a general deterrent to the perpetration of confrontational crime.

Despite the significance of Wright and Rossi, and Lott and Mustard's findings, there are no comprehensive indigenous studies that indicate whether, on the whole, South African offenders are deterred by the potential of meeting an armed victim. While one local study put the incidence of defensive gun use at 2.5 million over a two year period, the incidence of DGU in South Africa has yet to be reliably established.

The incidence of robbery of a firearm indicates that at least a number of South African criminals are not deterred by the prospect of an armed victim. It is quite possible that both South African criminals and armed, law abiding citizens differ in significant respects to their American counterparts. The circumstances under which crime is commonly perpetrated in South Africa may also differ from those in the United States and may either facilitate or hinder the potential for defensive gun use. However, at this stage there is no conclusive evidence to determine how similar or dis-similar the South African situation is in this regard.

Finally, the alleged positive correlation between the prevalence of civilian gun ownership and the incidence of violent crime was investigated. An examination of the evidence from Southern Africa and abroad indicates that the alleged positive correlation has yet to be

empirically demonstrated. Some of the most recent and reliable studies, in fact, find a *negative* correlation between high levels of civilian gun ownership and violent crime.

It is essential that South Africa take cognisance of the research findings from abroad and the success or failure of gun control in other countries. *All* the relevant data should be reviewed to avoid squandering scarce resources and repeating the mistakes of other nations. This being said, policy makers need to remain acutely aware of the unique situation in which South Africa finds itself. It should not attempt to impose policies that are out of sync with South African political and social culture, resources and government capacity.

It is also vital that extensive research be conducted into the relationship between civilian owned weapons and violent crime in South Africa, in particular the prevalence and effectiveness of defensive gun use. It is possible that the efficacy of stringent gun control measures could hinge on the prevalence of defensive gun use relative to the number of licensed civilian firearms that are illegally used in the perpetration of crimes. If the incidence of DGU exceeds the use of firearms in the perpetration of crimes, then stringent gun control measures could exacerbate, rather than ameliorate the crime situation.

As Wright and Rossi contend "The connection between guns and crime, while seemingly obvious and clear, is actually quite complex and rife with potentially counterbalancing interactions."² However, if the analysis of the limited available evidence is correct, it appears that the net effect could possibly be an *increase* rather than a decrease in the incidence of violent crime.

² Ibid., 3.

BIBLIOGRAPHY

BOOKS AND MONOGRAPHS

- Camerer, Lala, Antoinette Louw, Mark Shaw, Lillian Artz and Wilfried Scharf. *Crime in Cape Town: Results of a City Victim Survey*. ISS Monograph no. 23 (1998).
<http://www.iss.co.za/Pubs/MONOGRAPHS/No.%2023/Reporting.html> (23/04/2000).
- Chetty, Robert, ed. *Firearm Use and Distribution in South Africa*. Pretoria: National Crime Prevention Centre, 2000.
- Englander, Elizabeth K. *Understanding Violence*. New Jersey: Lawrence Erlbaum Associates Inc., 1997.
- Gamba, Virginia, ed. *Society Under Siege: Managing Arms in South Africa*. Towards Collaborative Peace vol. 3. Institute for Security Studies: Pretoria, 2000.
- Hirschowitz, Ros, Peter Buwembo, James Serwadda-Luwaga and Hans Nasholm. *Victims of Crime Survey*. Pretoria: Statistics South Africa, 1998.
- Lott, John R. Jr. *More Guns, Less Crime: Understanding Crime and Gun Control*. Chicago: University of Chicago Press, 1998.
- Louw, Antoinette, Mark Shaw, Lala Camerer and Rory Robertshaw. *Crime in Johannesburg: Results of a City Victim Survey*. ISS Monograph no. 18 (1998).
<http://www.iss.co.za/Pubs/MONOGRAPHS/No.%2018/Victims.html> (15/08/2000).
- Muncie, John, and Eugene McLaughlin. *The Problem of Crime*. London: Sage Publications, 1996.
- Nedcor. *Nedcor Project on Crime, Violence and Investment*. Johannesburg: Nedcor, 1996.
- United Nations Economic and Social Council: Commission on Crime Prevention. *Measures to Regulate Firearms*. United Nations: Vienna, 1997.
- Wright, James D., and Peter H. Rossi. *Armed and Considered Dangerous: A Survey of Felons and their Firearms*. New York: Aldine De Gruyter, 1986.
- Wright, James D., Peter H. Rossi and Kathleen Daly. *Under the Gun: Weapons, Crime and Violence in America*. New York: Aldine Publishing Company, 1983.

CHAPTERS IN BOOKS AND MONOGRAPHS

- Bollen, Sandra, Lillian Artz, Lisa Vetten and Antoinette Louw. Introduction to *Violence Against Women in Metropolitan South Africa: A Study on Impact and Service Delivery*. ISS Monograph no. 41(1999).
<http://www.iss.co.za/Pubs/MONOGRAPHS/41/Introduction/html> (03/08/2000).
- Chetty, Robert. Introduction to *Firearm Use and Distribution in South Africa*. Pretoria: National Crime Prevention Centre, 2000: 8-9.
- _____. "Summary." In *Firearm Use and Distribution in South Africa*. Pretoria: National Crime Prevention Centre, 2000: 10-11.
- _____. "Firearm Crime in South Africa." In *Firearm Use and Distribution in South Africa*. Pretoria: National Crime Prevention Centre, 2000: 18-31.
- _____. "Perceptions and Experiences of Firearm Use." In *Firearm Use and Distribution in South Africa*. Pretoria: National Crime Prevention Centre, 2000: 63-65.
- de Greef, Juan. "The Role of NGO's in the Control of Light Weapons: A Case Study of the South African Gun Owners Association." In *Society Under Siege: Managing Arms in South Africa*. Towards Collaborative Peace vol. 3. ed. Virginia Gamba. Institute for Security Studies: Pretoria, 2000: 227-253.
- Fanaroff, Bernard. Foreword to *Firearm Use and Distribution in South Africa* by ed. Robert Chetty. Pretoria: National Crime Prevention Centre, 2000.
- Gamba, Virginia, and Martinho Chachiua. "Small Arms Proliferation in Southern Africa: An Overview." In *Arms Management Programme- Operations Rachel 1996-1999*. Monograph no. 38 (1999). ed. Martinho Chachiua.
<http://www.iss.co.za/Pubs/MONOGRAPHS/mg38/1%20Title%20&%20contents.html> (29/01/2001).
- Gamba, Virginia. Preface to *Society Under Siege: Managing Arms in South Africa*. Towards Collaborative Peace vol. 3. Institute for Security Studies: Pretoria, 2000.
- Hennop, Ettienne. "Illegal Firearms in Circulation in South Africa." In *Society Under Siege: Managing Arms in South Africa*. Towards Collaborative Peace vol. 3. ed. Virginia Gamba. Institute for Security Studies: Pretoria, 2000: 13-22.
- Meek, Sarah. "The Results of the Lekoa /Vaal Firearm Survey." In *Society Under Siege: Managing Arms in South Africa*. Towards Collaborative Peace vol. 3. ed. Virginia Gamba. Institute for Security Studies: Pretoria, 2000: 97-130.

- _____. "Legal Firearms in South Africa: A Part of the Problem." In *Society Under Siege: Managing Arms in South Africa*. Towards Collaborative Peace vol. 3. ed. Virginia Gamba. Institute for Security Studies: Pretoria, 2000: 33-60.
- _____. "Transition and Illegal Weapons in South Africa: an Overview." In *Society Under Siege: Managing Arms in South Africa*. Towards Collaborative Peace vol. 3. ed. Virginia Gamba. Institute for Security Studies: Pretoria, 2000: 1-12.
- Shaw, Mark. "Violent Crime in South Africa." In *Firearm Use and Distribution* by ed. Robert Chetty. Pretoria: National Crime Prevention Centre, 2000: 12-17.

JOURNAL AND NEWSPAPER ARTICLES

- Besdziek, Dirk. "Into the Breech: Reversing the Proliferation of Firearms in South Africa." *African Security Review* vol. 5 no. 6 (1996):17-32.
- Butchart, Alexander, Johan Kruger and Victor Nell. "Neighbourhood Safety: A Township Violence and Injury Profile." *Crime and Conflict* no. 9 (Winter 1997):11-15.
- "Criminal Justice Monitor." In *Nedcor ISS Crime Index* vol. 4 no. 1 (Jan/Feb 2000).
<http://www.iss.co.za/Pubs/Crime%20Index/No.%201%202000/CJM.html> (26/07/00).
- Damon, Judy, and Priscilla Singh. "Moves to Quell Taxi Violence." *Cape Times*, 4 July 2000.
- Hennop, Ettienne. "Illegal Firearms in South Africa: Tracking Sources." *Nedcor ISS Crime Index* no. 2 (1999).
<http://www.iss.co.za/Pubs/Crime%20Index/Vol%203%20No.%202/Firearms.html>
 (26/07/00).
- Huisamen, Mandie. "Reducing Gun Violence in South Africa." *Servamus* (May 2000): 25-27.
- Jagwanth, S., and Thipanyane, T. "Gun Control in South Africa: a Critical Review." *South African Journal of Criminal Justice* (6):21-28.
- Kellermann, Arthur, and Donald Reay. "Protection or Peril: An Analysis of Firearm Related Deaths in the Home." *New England Journal of Medicine* vol. 314 no. 24 (June 1986): 1557-1560.
- Kleck, Gary, and Marc Gertz. "Armed Resistance to Crime: The Prevalence and Nature of Self-Defence with a Gun." *Journal of Criminal Law and Criminology* vol. 86 (Fall 1995): 150-187.
- Kirsten, Adele. "Stopping Gun Violence in South Africa." *Africa News* July 1997.
http://www.oneworld.org/news/reports/jun97_southafrica.html (04/11/1999).

Kirsten, Adele. "Firearm Legislation and Violent Crime: Room for Change. [http://www.iss.co.za/Pubs/Crime%20Index/...ction % 20I/Firearms%20Legislation%20.html](http://www.iss.co.za/Pubs/Crime%20Index/...ction%20I/Firearms%20Legislation%20.html)

Leher, L.B., and Desiree Hansson. "Smoking Guns and Public Health." *South African Medical Journal* vol. 83 (Sept 1993): 639-640.

Lott, John R. Jr., and David B. Mustard. "Crime, Deterrence, and Right-to-carry Concealed Handguns." *Journal of Legal Studies* vol. 26 (1997).
<http://www.journals.uchicago.edu/JLS/lott.pdf> (15/08/2000): 1-68.

Louw, Antoinette. "Comparing Crime in South Africa's Major Cities: Results of Four City Victim Surveys," in *African Security Review*, vol. 8 no. 1.
<http://www.iss.co.za/Pubs/ASR/8.1/comparing%20crime/html> (24/4/2000).

Minnaar, Anthony. "A Plague of Guns: the Proliferation of Firearms." *Crime and Conflict* no. 14 (Summer 1998): 23-27.

Taylor, Helen, and Robert Mattes. "The Public Agenda." *Opinion* 1999. Press Release, 24 May 1999 (http://www.idasa.org.za/pos/op99/op99_no34.htm?NS-se...sd5.1ff319&NS-doc-offset=0) (15/05/00).

Thamm, Marianne. "The Bomber Who Keeps Calling." *Cape Times*, 12 September 2000.

Thiel, Gustav, and Judy Damon. "Please Stop the Senseless Killing." *Cape Times*, 14 August 2000.

PUBLIC DOCUMENTS

Government of South Africa. "The Firearms Control Bill B34-2000" (Revised Version) *Government Gazette* No. 21193 of 19 May 2000. Pretoria: Government Printer, 2000.

Inter-departmental Strategy Team. *National Crime Prevention Strategy: Summary*. Pretoria: Government Printer, 1996.

Inter-departmental Strategy Team. *National Crime Prevention Strategy*. Pretoria: Government Printer, 1996.

South African Police Services, Crime Information Analysis Centre. "A Selection of Research Results Received from Provincial Crime Information management Centres." In *Monthly Report* 2/97. http://www.saps.co.za/8_crimeinfo/297/research.htm (13/08/2000).

_____. "Annexure E" to *Semester Report on the Incidence of Serious Crime in South Africa January to December 1998, Semester Report 1/99* (Pretoria, 1999).

_____. "The Crime Situation at National, Provincial, Area and Station Level." In *Semester Report 1/2000*. http://www.saps.org.za/8_crimeinfo/12000/CrimeSituation.htm (13/08/2000).

_____. "The Generators of Crime in South Africa." In *Semester Report 1/2000*. http://www.saps.org.za/8_crimeinfo/12000/generators.htm (13/08/2000).

_____. "Statistical Analysis of Reported Rape Cases." In *Semester Report 1/2000*. http://www.saps.org.za/8_crimeinfo/12000/rapeanalysis.htm (13/08/2000).

_____. "Table 1." In *Semester Report 1/2000*. http://www.saps.org.za/8_crimeinfo/12000/Table1.htm (13/08/2000).

Western Cape, SAPS CIAC. *The Western Cape Province Crime: Semester Report 2/99* (December 1999).

UNPUBLISHED MATERIAL

Altbeker, Anthony. "Guns and Public Safety: Gun Crime and Self- Defence in Alexandra and Bramley." Unpublished Research Report commissioned by Gun Free South Africa, 1999.

Altbeker, Anthony. "Are South Africans Responsible Firearm Owners? Evidence from 1000 Dockets." Unpublished Research Report commissioned by Gun Free South Africa, 2000.

Gun Free South Africa. "Gun Free South Africa." <http://www.wits.ac.za/csvr/gunfree.htm> (25/08/2000).

Hansson, Desiree. "Guns and Control in South Africa: A Case Study of Fatal Gun Use in Metropolitan Cape Town, 1984-1991, with a Critical Examination of Broader Issues." Ph.D. diss., University of Cape Town, 1998.

McKenzie, Katherine. "Domestic Gun Control Policy in Ten SADC Countries." Unpublished Research Report commissioned by Gun Free South Africa, 1999.

Network Of Independent Monitors and Gun Free South Africa. "Weapons Proliferation in South Africa with a Particular Focus on Proliferation of Illegal Small Arms in Kwa-Zulu Natal." Unpublished Research Project commissioned by Gun Free South Africa, 1998.

Taylor, Claire. "Health, Human Rights and Firearm." Paper presented to the 5th International Health and Human Rights Conference. Cape Town, South Africa. 3-6th December 1998.

Wesson, Richard. "An Inspection into the Relationship Between Murder Rates and Legalised Private Ownership of Firearms in Southern Africa, with Special Regard to South Africa." 1999. [http:// www.geocities.com/gnostos_2000/Gunrep.htm](http://www.geocities.com/gnostos_2000/Gunrep.htm) (17/04/2000).

Informal Telephonic Interview with an official of the Department of Safety and Security.
7 December 2000.

SUBMISSIONS ON THE FIREARMS CONTROL BILL

- Clay Target Shooting Association. "Submission on the Firearms Control Bill."
(2000). E-mail attachment from Sarah Kalell (cstasa@netactive.co.za), National Secretary
for the Clay Target Shooting Association. 24 August 2000.
- Hammond, Peter. "The Proposed Firearms Control Bill, Government Gazette 21193." United
Christian Action Submission on Firearms Control Bill. (12 June 2000).
<http://www.pmg.co.za/FirearmsBill.UCA.htm> (03/08/2000).
- Louw, Adrian. "Submission regarding the new draft South Africans Firearms Bill B34-2000."
(3 June 2000). <http://www.pmg.org.za/FirearmsBill/Louw/htm> (03/08/2000).
- McKenzie, Katharine. "Oral comments by Katherine McKenzie on the Firearms Control
Bill." (14 August 2000). <http://www.pmg.co.za/FirearmsBill/McKenzie.htm> (03/08/2000).
- National Firearms Forum. "Submission on the Firearms Control Bill B34 –2000."
<http://www.pmg.co.za/FirearmsBill/NFF.htm> (03/08/2000).